

By: Zerwas

H.B. No. 1151

A BILL TO BE ENTITLED

1 AN ACT
2 relating to service plans and placements for children under the
3 care of the Department of Family and Protective Services.

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

5 SECTION 1. Section 263.102, Family Code, is amended by
6 adding Subsection (b-1) to read as follows:

7 (b-1) Unless otherwise ordered by a court, a service plan
8 must include the following statement prominently displayed
9 immediately above each parent's signature in at least 12-point type
10 that is boldfaced and capitalized:

11 THIS SERVICE PLAN IS NOT MANDATORY. THIS SERVICE PLAN IS
12 MERELY A RECOMMENDATION BY THE DEPARTMENT OF FAMILY AND PROTECTIVE
13 SERVICES. YOU ARE NOT REQUIRED TO SIGN IT. ALTHOUGH YOU MAY SIGN IT
14 IF YOU DESIRE, THE FULFILLMENT OF THE REQUIREMENTS OF THIS SERVICE
15 PLAN WILL NOT NECESSARILY ASSURE THE RETURN OF YOUR CHILD. YOUR
16 REFUSAL TO SIGN THIS SERVICE PLAN IS NOT AN ADMISSION OF CHILD ABUSE
17 OR NEGLECT ON YOUR PART AND CANNOT BE USED AGAINST YOU AS AN
18 ADMISSION OF CHILD ABUSE OR NEGLECT. A VIOLATION OF THIS SERVICE
19 PLAN CANNOT BE USED AS GROUNDS FOR TERMINATION OF YOUR PARENTAL
20 RIGHTS AND DUTIES. YOU HAVE THE RIGHT TO CONSULT AN ATTORNEY BEFORE
21 SIGNING THIS SERVICE PLAN.

22 SECTION 2. Sections 263.103(a-1) and (c), Family Code, are
23 amended to read as follows:

24 (a-1) Before the original service plan is signed, the

1 child's parents and the representative of the department or other
2 authorized agency shall discuss each term and condition of the
3 plan. The representative shall inform the child's parents that
4 compliance with the service plan is voluntary.

5 (c) If the department or other authorized agency determines
6 that the child's parents are unable or unwilling to participate in
7 the development of the original service plan or sign the plan, a
8 parent or the department may file a motion for a hearing to approve
9 the plan. The court may accept or modify the plan based on the
10 testimony of the parties [~~without the parents' signatures~~].

11 SECTION 3. Section 263.104, Family Code, is amended by
12 adding Subsection (a-1) and amending Subsection (b) to read as
13 follows:

14 (a-1) If the department or other authorized agency
15 determines that the child's parents are unable or unwilling to sign
16 the amended service plan, a parent or the department may file a
17 motion for a hearing to approve the amended service plan. The court
18 may accept or modify the amended service plan based on the testimony
19 of the parties.

20 (b) The amended service plan supersedes the previously
21 filed service plan and takes effect when:

22 (1) the child's parents and the appropriate
23 representative of the department or other authorized agency sign
24 the plan; or

25 (2) the court issues an order giving effect to the
26 plan [~~the department or other authorized agency determines that~~
27 ~~the child's parents are unable or unwilling to sign the amended plan~~

1 ~~and files it]~~ without the parents' signatures.

2 SECTION 4. Section 264.751(1), Family Code, is amended to
3 read as follows:

4 (1) "Designated caregiver" means an individual [~~who~~
5 ~~has a longstanding and significant relationship with a child for~~
6 ~~whom the department has been appointed managing conservator and]~~
7 who:

8 (A) is appointed to provide substitute care for
9 a [the] child for whom the department has been appointed managing
10 conservator, but is not licensed by the department or verified by a
11 licensed child-placing agency or the department to operate a foster
12 home, foster group home, agency foster home, or agency foster group
13 home under Chapter 42, Human Resources Code; or

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

17 SECTION 5. Section 264.752, Family Code, is amended by
18 adding Subsection (d) to read as follows:

19 (d) There is a rebuttable presumption that placing a child
20 in the care of a person designated by the parent or other person
21 having legal custody of the child is in the best interest of the
22 child.

23 SECTION 6. Section 264.753, Family Code, is amended to read
24 as follows:

25 Sec. 264.753. EXPEDITED PLACEMENT. The department or
26 other authorized entity shall expedite the completion of the
27 background and criminal history check[~~, the home study,~~] and any

1 other administrative procedure to ensure that the child is placed
2 with a qualified relative or caregiver as soon as possible after the
3 date the caregiver is identified.

4 SECTION 7. Section 264.754, Family Code, is amended to read
5 as follows:

6 Sec. 264.754. INVESTIGATION OF [~~PROPOSED~~] PLACEMENT OF
7 CHILD WITH RELATIVE OR DESIGNATED CAREGIVER. After [~~Before~~]
8 placing a child with a proposed relative or other designated
9 caregiver, the department may [~~must~~] conduct a comprehensive [~~an~~]
10 investigation, including a home study, to determine whether the
11 [~~proposed~~] placement provides a safe environment for the child [~~is~~
12 ~~in the child's best interest~~].

13 SECTION 8. The changes in law made by this Act to Sections
14 263.102, 263.103, and 263.104, Family Code, apply only to a service
15 plan filed by the Department of Family and Protective Services and
16 submitted to a child's parent on or after the effective date of this
17 Act. A service plan filed by the department and submitted to a
18 child's parent before the effective date of this Act is governed by
19 the law in effect on the date the service plan was filed, and the
20 former law is continued in effect for that purpose.

21 SECTION 9. The changes in law made by this Act to Sections
22 264.751, 264.752, 264.753, and 264.754, Family Code, apply only to
23 an investigation of a report of child abuse or neglect that is made
24 on or after the effective date of this Act. A report that is made
25 before the effective date of this Act is governed by the law in
26 effect on the date the report was made, and the former law is
27 continued in effect for that purpose.

1 SECTION 10. This Act takes effect September 1, 2013.