

By: N. Gonzalez of El Paso

H.B. No. 1453

Substitute the following for H.B. No. 1453:

By: Raymond

C.S.H.B. No. 1453

A BILL TO BE ENTITLED

1 AN ACT
2 relating to visitation for certain children in the temporary
3 managing conservatorship of the Department of Family and Protective
4 Services.

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

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

8 Sec. 262.115. VISITATION WITH CERTAIN CHILDREN; TEMPORARY
9 VISITATION SCHEDULE. (a) In this section, "department" means the
10 Department of Family and Protective Services.

11 (b) This section applies only to a child:

12 (1) who is in the temporary managing conservatorship
13 of the department; and

14 (2) for whom the department's goal is reunification of
15 the child with the child's parent.

16 (c) The department shall ensure that a parent who was
17 entitled to possession of the child before removal of the child by
18 the department has an opportunity to visit the child not later than
19 the third day after the date the department is named temporary
20 managing conservator of the child unless:

21 (1) the department determines that visitation is not
22 in the child's best interest; or

23 (2) visitation with the parent would conflict with a
24 court order relating to possession of or access to the child.

1 (d) Before a hearing conducted under Subchapter C, the
2 department, in collaboration with each parent of the child, to the
3 extent possible, must develop a temporary visitation schedule for
4 the child's visits with each parent. The visitation schedule may
5 conform to the department's minimum visitation policies. The
6 department shall consider the factors listed in Section 263.107(c)
7 in developing the temporary visitation schedule. Unless modified
8 by court order, the schedule remains in effect until a visitation
9 plan is developed under Section 263.107.

10 (e) The department may include the temporary visitation
11 schedule in any report the department submits to the court before or
12 during a hearing under Subchapter C. The court may render any
13 necessary order regarding the temporary visitation schedule.

14 SECTION 2. The heading to Chapter 263, Family Code, is
15 amended to read as follows:

16 CHAPTER 263. REVIEW OF PLACEMENT OF CHILDREN UNDER CARE OF
17 DEPARTMENT OF FAMILY AND PROTECTIVE [~~AND REGULATORY~~] SERVICES

18 SECTION 3. The heading to Subchapter B, Chapter 263, Family
19 Code, is amended to read as follows:

20 SUBCHAPTER B. SERVICE PLAN AND VISITATION PLAN

21 SECTION 4. Subchapter B, Chapter 263, Family Code, is
22 amended by adding Sections 263.107, 263.108, and 263.109 to read as
23 follows:

24 Sec. 263.107. VISITATION PLAN. (a) This section applies
25 only to a child in the temporary managing conservatorship of the
26 department for whom the department's goal is reunification of the
27 child with the child's parent.

1 (b) Not later than the 30th day after the date the
2 department is named temporary managing conservator of a child, the
3 department shall develop a visitation plan in collaboration with
4 each parent of the child unless a child's parent cannot be located
5 or the department cannot obtain the collaboration of the parent
6 despite making reasonable efforts to locate or collaborate with the
7 parent.

8 (c) In determining the frequency and circumstances of
9 visitation under this section, the department must consider:

10 (1) the safety and best interest of the child;

11 (2) the age of the child;

12 (3) the desires of each parent regarding visitation
13 with the child;

14 (4) the location of each parent and the child; and

15 (5) the resources available to the department,
16 including the resources to:

17 (A) ensure that visitation is properly
18 supervised by a department employee or, if determined appropriate
19 by the department, another person the department determines
20 suitable and who has a background and criminal history check on file
21 with the department; and

22 (B) provide transportation to and from visits.

23 (d) Not later than the 10th day before the date of a status
24 hearing under Section 263.201, the department shall file with the
25 court a copy of the visitation plan developed under this section.

26 (e) The department may amend the visitation plan for a
27 parent on mutual agreement of that parent and the department or as

1 the department considers necessary to ensure the safety of the
2 child. An amendment to the visitation plan must be in the child's
3 best interest. The department shall file a copy of any amended
4 visitation plan with the court.

5 (f) A visitation plan developed under this section may not
6 conflict with a court order relating to possession of or access to
7 the child.

8 Sec. 263.108. REVIEW OF VISITATION PLAN; MODIFICATION.

9 (a) At the first hearing held under this chapter after the date an
10 original or amended visitation plan is filed with the court under
11 Section 263.107, the court shall review the visitation plan, taking
12 into consideration the factors specified in Section 263.107(c).

13 (b) The court may modify, or order the department to modify,
14 an original or amended visitation plan at any time.

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

19 Sec. 263.109. COURT IMPLEMENTATION OF VISITATION PLAN.

20 (a) After reviewing an original or amended visitation plan, the
21 court shall render an order regarding a parent's visitation with a
22 child that the court determines appropriate.

23 (b) If the court finds that visitation between a child and a
24 parent is not in the child's best interest, the court shall render
25 an order that:

26 (1) states the reasons for finding that visitation is
27 not in the child's best interest; and

1 (2) outlines specific steps the parent must take to be
2 allowed to have visitation with the child.

3 (c) If the order regarding visitation between a child and a
4 parent requires supervised visitation to protect the health and
5 safety of the child, the order must outline specific steps the
6 parent must take to have the level of supervision reduced.

7 SECTION 5. Section 263.306(a), Family Code, is amended to
8 read as follows:

9 (a) At each permanency hearing the court shall:

10 (1) identify all persons or parties present at the
11 hearing or those given notice but failing to appear;

12 (2) review the efforts of the department or another
13 agency in:

14 (A) attempting to locate all necessary persons;

15 (B) requesting service of citation; and

16 (C) obtaining the assistance of a parent in
17 providing information necessary to locate an absent parent, alleged
18 father, or relative of the child;

19 (3) review the efforts of each custodial parent,
20 alleged father, or relative of the child before the court in
21 providing information necessary to locate another absent parent,
22 alleged father, or relative of the child;

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

26 (5) return the child to the parent or parents if the
27 child's parent or parents are willing and able to provide the child

1 with a safe environment and the return of the child is in the
2 child's best interest;

3 (6) [~~(5)~~] place the child with a person or entity,
4 other than a parent, entitled to service under Chapter 102 if the
5 person or entity is willing and able to provide the child with a
6 safe environment and the placement of the child is in the child's
7 best interest;

8 (7) [~~(6)~~] evaluate the department's efforts to
9 identify relatives who could provide the child with a safe
10 environment, if the child is not returned to a parent or another
11 person or entity entitled to service under Chapter 102;

12 (8) [~~(7)~~] evaluate the parties' compliance with
13 temporary orders and the service plan;

14 (9) [~~(8)~~] determine whether:

15 (A) the child continues to need substitute care;

16 (B) the child's current placement is appropriate
17 for meeting the child's needs, including with respect to a child who
18 has been placed outside of the state, whether that placement
19 continues to be in the best interest of the child; and

20 (C) other plans or services are needed to meet
21 the child's special needs or circumstances;

22 (10) [~~(9)~~] if the child is placed in institutional
23 care, determine whether efforts have been made to ensure placement
24 of the child in the least restrictive environment consistent with
25 the best interest and special needs of the child;

26 (11) [~~(10)~~] if the child is 16 years of age or older,
27 order services that are needed to assist the child in making the

1 transition from substitute care to independent living if the
2 services are available in the community;

3 (12) [~~(11)~~] determine plans, services, and further
4 temporary orders necessary to ensure that a final order is rendered
5 before the date for dismissal of the suit under this chapter;

6 (13) [~~(12)~~] if the child is committed to the Texas
7 Juvenile Justice Department [~~Youth Commission~~] or released under
8 supervision by the Texas Juvenile Justice Department [~~Youth~~
9 ~~Commission~~], determine whether the child's needs for treatment,
10 rehabilitation, and education are being met; and

11 (14) [~~(13)~~] determine the date for dismissal of the
12 suit under this chapter and give notice in open court to all parties
13 of:

- 14 (A) the dismissal date;
- 15 (B) the date of the next permanency hearing; and
- 16 (C) the date the suit is set for trial.

17 SECTION 6. Section 411.114(a)(3), Government Code, as
18 amended by Chapters 598 (S.B. 218), 1056 (S.B. 221), and 1082 (S.B.
19 1178), Acts of the 82nd Legislature, Regular Session, 2011, is
20 reenacted and amended to read as follows:

21 (3) The Department of Family and Protective Services
22 is entitled to obtain from the department criminal history record
23 information maintained by the department that relates to a person
24 who is:

- 25 (A) a volunteer or applicant volunteer with a
26 local affiliate in this state of Big Brothers/Big Sisters of
27 America;

1 (B) a volunteer or applicant volunteer with the
2 "I Have a Dream/Houston" program;

3 (C) a volunteer or applicant volunteer with an
4 organization that provides court-appointed special advocates for
5 abused or neglected children;

6 (D) a person providing, at the request of the
7 child's parent, in-home care for a child who is the subject of a
8 report alleging the child has been abused or neglected;

9 (E) a volunteer or applicant volunteer with a
10 Texas chapter of the Make-a-Wish Foundation of America;

11 (F) a person providing, at the request of the
12 child's parent, in-home care for a child only if the person gives
13 written consent to the release and disclosure of the information;

14 (G) a child who is related to the caretaker, as
15 determined under Section 42.002, Human Resources Code, and who
16 resides in or is present in a child-care facility or family home,
17 other than a child described by Subdivision (2)(C), or any other
18 person who has unsupervised access to a child in the care of a
19 child-care facility or family home;

20 (H) an applicant for a position with the
21 Department of Family and Protective Services, other than a position
22 described by Subdivision (2)(D), regardless of the duties of the
23 position;

24 (I) a volunteer or applicant volunteer with the
25 Department of Family and Protective Services, other than a
26 registered volunteer, regardless of the duties to be performed;

27 (J) a person providing or applying to provide

1 in-home, adoptive, or foster care for children to the extent
2 necessary to comply with Subchapter B, Chapter 162, Family Code;

3 (K) a Department of Family and Protective
4 Services employee, other than an employee described by Subdivision
5 (2)(H), regardless of the duties of the employee's position;

6 (L) a relative of a child in the care of the
7 Department of Family and Protective Services, to the extent
8 necessary to comply with Section 162.007, Family Code;

9 (M) a person, other than an alleged perpetrator
10 in a report described in Subdivision (2)(I), living in the
11 residence in which the alleged victim of the report resides;

12 (N) a contractor or an employee of a contractor
13 who delivers services to a ward of the Department of Family and
14 Protective Services under a contract with the estate of the ward;

15 (O) a person who seeks unsupervised visits with a
16 ward of the Department of Family and Protective Services, including
17 a relative of the ward;

18 (P) an employee, volunteer, or applicant
19 volunteer of a children's advocacy center under Subchapter E,
20 Chapter 264, Family Code, including a member of the governing board
21 of a center; [~~or~~]

22 (Q) an employee of, an applicant for employment
23 with, or a volunteer or an applicant volunteer with an entity or
24 person that contracts with the Department of Family and Protective
25 Services and has access to confidential information in the
26 department's records, if the employee, applicant, volunteer, or
27 applicant volunteer has or will have access to that confidential

1 information;

2 (R) [~~(Q)~~] an employee of or volunteer at, or an
3 applicant for employment with or to be a volunteer at, an entity
4 that provides supervised independent living services to a young
5 adult receiving extended foster care services from the Department
6 of Family and Protective Services; [~~or~~]

7 (S) [~~(R)~~] a person 14 years of age or older who
8 will be regularly or frequently working or staying in a host home
9 that is providing supervised independent living services to a young
10 adult receiving extended foster care services from the Department
11 of Family and Protective Services; or

12 (T) a person selected by the Department of Family
13 and Protective Services to supervise visitation under Subchapter B,
14 Chapter 263, Family Code.

15 SECTION 7. The changes in law made by this Act apply only to
16 a child who is taken into possession by the Department of Family and
17 Protective Services on or after the effective date of this Act. A
18 child taken into possession by the Department of Family and
19 Protective Services before the effective date of this Act is
20 governed by the law in effect on the date the child was taken into
21 possession, and the former law is continued in effect for that
22 purpose.

23 SECTION 8. To the extent of any conflict, this Act prevails
24 over another Act of the 83rd Legislature, Regular Session, 2013,
25 relating to nonsubstantive additions to and corrections in enacted
26 codes.

27 SECTION 9. This Act takes effect September 1, 2013.