

By: N. Gonzalez of El Paso

H.B. No. 1453

A BILL TO BE ENTITLED

AN ACT

relating to a visitation plan for certain children taken into possession by the Department of Family and Protective Services.

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

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

Sec. 262.115. VISITATION WITH CERTAIN CHILDREN; PLAN; GUIDELINES. (a) In this section, "department" means the Department of Family and Protective Services.

(b) This section applies only to a child:

(1) who is three years of age or younger;

(2) who has been taken into possession by the department;

(3) for whom the department is seeking appointment as temporary managing conservator; and

(4) for whom the department's goal is reunification of the child with a parent, managing conservator, possessory conservator, guardian, caretaker, or custodian who is otherwise entitled to possession of the child.

(c) The department shall ensure that a parent, managing conservator, possessory conservator, guardian, caretaker, or custodian 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 of the initial hearing before a court regarding the child.

1        (d) Before a full adversary hearing under Subchapter C, the  
2 department shall file a visitation plan with the court. The  
3 visitation plan must allow a parent, managing conservator,  
4 possessory conservator, guardian, caretaker, or custodian who is  
5 otherwise entitled to possession of the child to have visitation  
6 with the child at least two times each week unless the department  
7 determines that visitation is not in the best interest of the child.

8        (e) The department shall develop guidelines to govern  
9 appropriate visitation with a child under the visitation plan.

10       (f) A visitation plan under this section may not conflict  
11 with an existing order for possession of or access to the child.

12       SECTION 2. Subchapter C, Chapter 262, Family Code, is  
13 amended by adding Section 262.2012 to read as follows:

14       Sec. 262.2012. REVIEW OF VISITATION PLAN; ORDER. (a) In  
15 this section, "department" means the Department of Family and  
16 Protective Services.

17       (b) At the full adversary hearing, the court shall review  
18 the department's visitation plan filed under Section 262.115. The  
19 court, as the court determines appropriate, shall order visitation  
20 under the plan or, if the court finds that visitation under the plan  
21 is not in the child's best interest, the court shall render an order  
22 that:

23                (1) modifies the visitation plan or provides for no  
24 visitation with the child;

25                (2) states the reasons for finding that the plan is not  
26 in the child's best interest; and

27                (3) outlines specific steps that the parent, managing

1 conservator, possessory conservator, guardian, caretaker, or  
2 custodian who is entitled to possession of the child must take to be  
3 allowed more visits with the child.

4 (c) The court may require supervision of each visit as the  
5 court determines necessary to protect the health and safety of the  
6 child. A volunteer with the department or an organization that  
7 provides services to children in this state may provide the  
8 supervision required by court order if the volunteer has a  
9 background and criminal history check on file with the department.

10 (d) Any visitation ordered under this section must comply  
11 with the guidelines adopted by the department under Section  
12 262.115.

13 SECTION 3. Section 263.202, Family Code, is amended by  
14 adding Subsection (i) to read as follows:

15 (i) The court shall review the court's order relating to  
16 visitation rendered under Section 262.2012 and modify the order as  
17 the court determines necessary.

18 SECTION 4. Section 263.306(a), Family Code, is amended to  
19 read as follows:

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

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

23 (2) review the efforts of the department or another  
24 agency in:

25 (A) attempting to locate all necessary persons;

26 (B) requesting service of citation; and

27 (C) obtaining the assistance of a parent in

1 providing information necessary to locate an absent parent, alleged  
2 father, or relative of the child;

3 (3) review the efforts of each custodial parent,  
4 alleged father, or relative of the child before the court in  
5 providing information necessary to locate another absent parent,  
6 alleged father, or relative of the child;

7 (4) review the court's order relating to visitation  
8 rendered under Section 262.2012 and modify the order as the court  
9 determines necessary;

10 (5) return the child to the parent or parents if the  
11 child's parent or parents are willing and able to provide the child  
12 with a safe environment and the return of the child is in the  
13 child's best interest;

14 (6) [~~5~~] place the child with a person or entity,  
15 other than a parent, entitled to service under Chapter 102 if the  
16 person or entity is willing and able to provide the child with a  
17 safe environment and the placement of the child is in the child's  
18 best interest;

19 (7) [~~6~~] evaluate the department's efforts to  
20 identify relatives who could provide the child with a safe  
21 environment, if the child is not returned to a parent or another  
22 person or entity entitled to service under Chapter 102;

23 (8) [~~7~~] evaluate the parties' compliance with  
24 temporary orders and the service plan;

25 (9) [~~8~~] determine whether:

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

27 (B) the child's current placement is appropriate

1 for meeting the child's needs, including with respect to a child who  
2 has been placed outside of the state, whether that placement  
3 continues to be in the best interest of the child; and

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

6 (10) [~~(9)~~] if the child is placed in institutional  
7 care, determine whether efforts have been made to ensure placement  
8 of the child in the least restrictive environment consistent with  
9 the best interest and special needs of the child;

10 (11) [~~(10)~~] if the child is 16 years of age or older,  
11 order services that are needed to assist the child in making the  
12 transition from substitute care to independent living if the  
13 services are available in the community;

14 (12) [~~(11)~~] determine plans, services, and further  
15 temporary orders necessary to ensure that a final order is rendered  
16 before the date for dismissal of the suit under this chapter;

17 (13) [~~(12)~~] if the child is committed to the Texas  
18 Juvenile Justice Department [~~Youth Commission~~] or released under  
19 supervision by the Texas Juvenile Justice Department [~~Youth~~  
20 ~~Commission~~], determine whether the child's needs for treatment,  
21 rehabilitation, and education are being met; and

22 (14) [~~(13)~~] determine the date for dismissal of the  
23 suit under this chapter and give notice in open court to all parties  
24 of:

25 (A) the dismissal date;

26 (B) the date of the next permanency hearing; and

27 (C) the date the suit is set for trial.

1           SECTION 5. The changes in law made by this Act apply only to  
2 a child who is taken into possession by the Department of Family and  
3 Protective Services on or after the effective date of this Act. A  
4 child taken into possession by the Department of Family and  
5 Protective Services before the effective date of this Act is  
6 governed by the law in effect on the date the child was taken into  
7 possession, and the former law is continued in effect for that  
8 purpose.

9           SECTION 6. This Act takes effect September 1, 2013.