

By: Naishtat

H.B. No. 2619

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the educational needs of children in the  
3 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. Section 107.002, Family Code, is amended by  
7 adding Subsection (i) to read as follows:

8 (i) A guardian ad litem appointed to represent a child in  
9 the managing conservatorship of the Department of Family and  
10 Protective Services must, before each scheduled hearing under  
11 Chapter 263, file with the court a report on the guardian ad litem's  
12 efforts to identify and address the educational needs and goals of  
13 the child.

14 SECTION 2. Section 107.004, Family Code, is amended by  
15 adding Subsection (d-2) to read as follows:

16 (d-2) An attorney ad litem appointed to represent a child in  
17 the managing conservatorship of the Department of Family and  
18 Protective Services must, before each scheduled hearing under  
19 Chapter 263, file with the court a report on the attorney ad litem's  
20 efforts to identify and address the educational needs and goals of  
21 the child.

22 SECTION 3. Subchapter A, Chapter 263, Family Code, is  
23 amended by adding Section 263.0025 to read as follows:

24 Sec. 263.0025. APPOINTMENT OF SURROGATE PARENT. (a) If a

1 child in the temporary or permanent conservatorship of the  
2 department is eligible under Section 29.003, Education Code, to  
3 participate in a school district's special education program, the  
4 court may, when necessary to ensure that the educational rights of  
5 the child are protected, appoint a surrogate parent who:

6 (1) is willing to serve in that capacity; and

7 (2) meets the requirements of 20 U.S.C. Section  
8 1415(b) and Section 29.001(10), Education Code.

9 (b) In appointing a surrogate parent for a child, the court  
10 shall give preferential consideration to a foster parent of the  
11 child as required under Section 29.015, Education Code.

12 (c) If the court does not appoint a child's foster parent to  
13 serve as the child's surrogate parent, the court shall give  
14 consideration to:

15 (1) a relative or other designated caregiver as  
16 defined by Section 264.751; or

17 (2) a court-appointed volunteer advocate who has been  
18 appointed to serve as the child's guardian ad litem, as provided by  
19 Section 107.031(c).

20 (d) The following persons may not be appointed as a  
21 surrogate parent for the child:

22 (1) the department;

23 (2) the Texas Education Agency;

24 (3) a school or school district; or

25 (4) any other agency that is involved in the education  
26 or care of the child.

27 SECTION 4. Subchapter A, Chapter 263, Family Code, is

1 amended by adding Section 263.004 to read as follows:

2 Sec. 263.004. NOTICE TO COURT REGARDING EDUCATION  
3 DECISION-MAKING. (a) Unless the rights and duties of the  
4 department under Section 153.371(10) to make decisions regarding  
5 the child's education have been limited by court order, the  
6 department shall file with the court a report identifying the name  
7 and contact information for each person who has been:

8 (1) designated by the department to make educational  
9 decisions on behalf of the child; and

10 (2) assigned to serve as the child's surrogate parent  
11 in accordance with 20 U.S.C. Section 1415(b) and Section  
12 29.001(10), Education Code, for purposes of decision-making  
13 regarding special education services, if applicable.

14 (b) Not later than the fifth day after the date an adversary  
15 hearing under Section 262.201 or Section 262.205 is concluded, the  
16 report required by Subsection (a) shall be filed with the court and  
17 a copy shall be provided to:

18 (1) each person entitled to notice of a permanency  
19 hearing under Section 263.301; and

20 (2) the school the child attends.

21 (c) If a person other than a person identified in the report  
22 required by Subsection (a) is designated to make educational  
23 decisions or assigned to serve as a surrogate parent, the  
24 department shall file with the court an updated report that  
25 includes the information required by Subsection (a) for the  
26 designated or assigned person. The updated report must be filed not  
27 later than the fifth day after the date of designation or

1 assignment.

2 SECTION 5. Subchapter B, Chapter 264, Family Code, is  
3 amended by adding Section 264.1072 to read as follows:

4 Sec. 264.1072. EDUCATIONAL STABILITY. The department shall  
5 develop, in accordance with 42 U.S.C. Section 675, a plan to ensure  
6 the educational stability of a foster child.

7 SECTION 6. Section 266.008(c), Family Code, is amended to  
8 read as follows:

9 (c) The department shall make the passport available to:

10 (1) any person authorized by law to make educational  
11 decisions for the foster child;

12 (2) the person authorized to consent to medical care  
13 for the foster child; and

14 (3) [to] a provider of medical care to the foster child  
15 if access to the foster child's educational information is  
16 necessary to the provision of medical care and is not prohibited by  
17 law.

18 SECTION 7. Section 25.001(g), Education Code, is amended to  
19 read as follows:

20 (g) A student enrolled in a primary or secondary public  
21 [high] school [in grade 9, 10, 11, or 12] who is placed in the  
22 conservatorship of [temporary foster care by] the Texas Department  
23 of Family and Protective [Human] Services and at a residence  
24 outside the attendance area for the school or outside the school  
25 district is entitled to continue to attend [complete high school  
26 at] the school in which the student was enrolled immediately before  
27 entering conservatorship until the student successfully completes

1 the highest grade level offered by the school [~~at the time of~~  
2 ~~placement without payment of tuition~~].

3 SECTION 8. Section 25.007(b), Education Code, is amended to  
4 read as follows:

5 (b) In recognition of the challenges faced by students in  
6 substitute care, the agency shall assist the transition of  
7 substitute care students from one school to another by:

8 (1) ensuring that school records for a student in  
9 substitute care are transferred to the student's new school not  
10 later than the 10th working [~~14th~~] day after the date the student  
11 begins enrollment at the school;

12 (2) developing systems to ease transition of a student  
13 in substitute care during the first two weeks of enrollment at a new  
14 school;

15 (3) developing procedures for awarding credit for  
16 course work, including electives, completed by a student in  
17 substitute care while enrolled at another school;

18 (4) promoting practices that facilitate access by a  
19 student in substitute care to extracurricular programs, summer  
20 programs, credit transfer services, electronic courses provided  
21 under Chapter 30A, and after-school tutoring programs at nominal or  
22 no cost;

23 (5) establishing procedures to lessen the adverse  
24 impact of the movement of a student in substitute care to a new  
25 school;

26 (6) entering into a memorandum of understanding with  
27 the Department of Family and Protective Services regarding the

1 exchange of information as appropriate to facilitate the transition  
2 of students in substitute care from one school to another;

3 (7) encouraging school districts and open-enrollment  
4 charter schools to provide services for a student in substitute  
5 care in transition when applying for admission to postsecondary  
6 study and when seeking sources of funding for postsecondary study;

7 (8) requiring school districts, campuses, and  
8 open-enrollment charter schools to accept a referral for special  
9 education services made for a student in substitute care by a school  
10 previously attended by the student; ~~and~~

11 (9) requiring school districts to provide notice to  
12 the child's educational decision-maker and caseworker regarding  
13 events that may significantly impact the education of a child,  
14 including:

15 (A) requests or referrals for an evaluation under  
16 Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794), or  
17 special education under Section 29.003;

18 (B) admission, review, and dismissal committee  
19 meetings;

20 (C) manifestation determination reviews required  
21 by Section 37.004(b);

22 (D) any disciplinary actions under Chapter 37 for  
23 which parental notice is required;

24 (E) citations issued for Class C misdemeanor  
25 offenses on school property or at school-sponsored activities;

26 (F) reports of restraint and seclusion required  
27 by Section 37.0021; and

1                    (G) use of corporal punishment as provided by  
2 Section 37.0011; and

3                    (10) providing other assistance as identified by the  
4 agency.

5            SECTION 9. Section 25.087(b), Education Code, is amended to  
6 read as follows:

7            (b) A school district shall excuse a student from attending  
8 school for:

9                    (1) the following purposes, including travel for those  
10 purposes:

11                            (A) observing religious holy days;

12                            (B) attending a required court appearance;

13                            (C) appearing at a governmental office to  
14 complete paperwork required in connection with the student's  
15 application for United States citizenship;

16                            (D) taking part in a United States naturalization  
17 oath ceremony; ~~or~~

18                            (E) serving as an election clerk; or

19                            (F) for a child in the conservatorship of the  
20 Department of Family and Protective Services, attending a mental  
21 health or therapy appointment or family visitation as ordered by a  
22 court under Chapter 262 or 263, Family Code; or

23                    (2) a temporary absence resulting from an appointment  
24 with a health care professional [~~professionals~~] if that student  
25 commences classes or returns to school on the same day of the  
26 appointment.

27            SECTION 10. (a) Sections 107.002(i) and 107.004(d-2),

1 Family Code, as added by this Act, apply only to a suit affecting  
2 the parent-child relationship filed on or after the effective date  
3 of this Act. A suit filed before the effective date of this Act is  
4 governed by the law in effect on the date the suit was filed, and the  
5 former law is continued in effect for that purpose.

6 (b) The changes in law made by this Act to the Education Code  
7 apply beginning with the 2013-2014 school year.

8 SECTION 11. This Act takes effect September 1, 2013.