

By: Hughes, King of Taylor

H.B. No. 4121

Substitute the following for H.B. No. 4121:

By: Raymond

C.S.H.B. No. 4121

A BILL TO BE ENTITLED

AN ACT

relating to service plans and placements for children under the care of the Department of Family and Protective Services.

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

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

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

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

SECTION 2. Sections 263.103(a-1) and (c), Family Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, are amended to read as follows:

1 (a-1) Before the original service plan is signed, the  
2 child's parents and the representative of the department shall  
3 discuss each term and condition of the plan. The representative  
4 shall inform the child's parents that compliance with the service  
5 plan is voluntary.

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

12 SECTION 3. Section 263.104, Family Code, as amended by S.B.  
13 219, Acts of the 84th Legislature, Regular Session, 2015, is  
14 amended by adding Subsection (a-1) and amending Subsection (b) to  
15 read as follows:

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

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

24 (1) the child's parents and the appropriate  
25 representative of the department sign the plan; or

26 (2) the court issues an order giving effect to the  
27 plan ~~[the department determines that the child's parents are~~

1 ~~unable or unwilling to sign the amended plan and files it]~~ without  
2 the parents' signatures.

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

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

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

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

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

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

24 SECTION 6. Section 264.753, Family Code, as amended by S.B.  
25 219, Acts of the 84th Legislature, Regular Session, 2015, is  
26 amended to read as follows:

27 Sec. 264.753. EXPEDITED PLACEMENT. The department shall

1 expedite the completion of the background and criminal history  
2 check[, ~~the home study,~~] and any other administrative procedure to  
3 ensure that the child is placed with a qualified relative or  
4 caregiver as soon as possible after the date the caregiver is  
5 identified.

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

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

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

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

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1 effect on the date the report was made, and the former law is  
2 continued in effect for that purpose.

3 SECTION 10. This Act takes effect September 1, 2015.