

House Bill 1309
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SECTION 1. Subchapter A, Chapter 264, Family Code, is amended by adding Section 264.0121 to read as follows:

Sec. 264.0121. NOTICE TO LEGISLATORS OF FOSTER CHILD'S DEATH. Not later than the fifth day after the date the department is notified of the death of a child for whom the department has been appointed managing conservator, the department shall provide the information described by Section 261.203(a) for the child to the state senators and state representatives who represent:

(1) the county in which the child's placement at the time of the child's death was located; and

(2) the county in which a suit affecting the parent-child relationship involving the child is pending.

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2015.

No equivalent provision.

SENATE VERSION (IE)

SECTION 1. Same as House version.

SECTION 2. Same as House version.

SECTION __. Subchapter A, Chapter 264, Family Code, is amended by adding Section 264.018 to read as follows:

Sec. 264.018. REQUIRED NOTIFICATIONS. (a) In this section:

(1) "Child-placing agency" has the meaning assigned by Section 42.002, Human Resources Code.

(2) "Psychotropic medication" has the meaning assigned by Section 266.001.

(3) "Residential child-care facility" has the meaning assigned by Section 42.002, Human Resources Code.

(4) "Significant change in medical condition" means the occurrence of an injury or the onset of an illness that is life-

CONFERENCE

House Bill 1309
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

threatening or may have serious long-term health consequences. The term includes the occurrence or onset of an injury or illness that requires hospitalization for surgery or another procedure that is not minor emergency care.

(5) "Significant event" means:

(A) a placement change, including failure by the department to locate an appropriate placement for at least one night;

(B) a significant change in medical condition;

(C) an initial prescription of a psychotropic medication or a change in dosage of a psychotropic medication;

(D) a major change in school performance or a serious disciplinary event at school; or

(E) any event determined to be significant under department rule.

(b) The notification requirements of this section are in addition to other notice requirements provided by law, including Sections 264.107(g), and 264.123.

(c) The department must provide notice under this section in a manner that would provide actual notice to a person entitled to the notice, including the use of electronic notice whenever possible.

(d) Not later than 24 hours after an event described by this subsection, the department shall make a reasonable effort to notify a parent of a child in the managing conservatorship of the department of:

(1) a significant change in medical condition of the child;

(2) the enrollment or participation of the child in a drug research program under Section 266.0041; and

(3) an initial prescription of a psychotropic medication.

(e) Not later than 48 hours before the department changes the residential child-care facility of a child in the managing conservatorship of the department, the department shall

House Bill 1309
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

provide notice of the change to:

- (1) the child's parent;
- (2) an attorney ad litem appointed for the child under Chapter 107;
- (3) a guardian ad litem appointed for the child under Chapter 107;
- (4) a volunteer advocate appointed for the child under Chapter 107; and
- (5) the licensed administrator of the child-placing agency responsible for placing the child or the licensed administrator's designee.
- (f) As soon as possible but not later than the 10th day after the date the department becomes aware of a significant event affecting a child in the conservatorship of the department, the department shall provide notice of the significant event to:
 - (1) the child's parent;
 - (2) an attorney ad litem appointed for the child under Chapter 107;
 - (3) a guardian ad litem appointed for the child under Chapter 107;
 - (4) a volunteer advocate appointed for the child under Chapter 107;
 - (5) the licensed administrator of the child-placing agency responsible for placing the child or the licensed administrator's designee;
 - (6) a foster parent, prospective adoptive parent, relative of the child providing care to the child, or director of the group home or general residential operation where the child is residing; and
 - (7) any other person determined by a court to have an interest in the child's welfare.
- (g) For purposes of Subsection (f), if a hearing for the child is

House Bill 1309
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

conducted during the 10-day notice period described by that subsection, the department shall provide notice of the significant event at the hearing.

(h) The department is not required to provide notice under this section to a parent of a child in the managing conservatorship of the department if:

(1) the department cannot locate the parent;

(2) a court has restricted the parent's access to the information;

(3) the child is in the permanent managing conservatorship of the department and the parent has not participated in the child's case for at least six months despite the department's efforts to involve the parent;

(4) the parent's rights have been terminated; or

(5) the department has documented in the child's case file that it is not in the best interest of the child to involve the parent in case planning.

(i) The department is not required to provide notice of a significant event under this section to the child-placing agency responsible for the placement of a child in the managing conservatorship of the department, a foster parent, a prospective adoptive parent, a relative of the child providing care to the child, or the director of the group home or general residential operation where the child resides if that agency or individual is required under a contract or other agreement to provide notice of the significant event to the department.

(j) A person entitled to notice from the department under this section shall provide the department with current contact information, including the person's e-mail address and the telephone number at which the person may most easily be reached. The person shall update the person's contact information as soon as possible after a change to the

House Bill 1309
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

information. The department is not required to provide notice under this section to a person who fails to provide contact information to the department. The department may rely on the most recently provided contact information in providing notice under this section.

(k) To facilitate timely notification under this section, a residential child-care facility contracting with the department for 24-hour care shall notify the department, in the time provided by the facility's contract, of a significant event for a child who is in the conservatorship of the department and residing in the facility.

(l) The executive commissioner of the Health and Human Services Commission shall adopt rules necessary to implement this section using a negotiated rulemaking process under Chapter 2008, Government Code. [FA1]

No equivalent provision.

SECTION __. Section 266.0041(d), Family Code, is amended to read as follows:

(d) An independent medical advocate shall, within a reasonable time after the appointment, interview:

- (1) the foster child in a developmentally appropriate manner, if the child is four years of age or older;
- (2) the foster child's parent, if the parent is entitled to notification under Section 264.018 [~~266.005~~];
- (3) an advocate appointed by an institutional review board in accordance with the Code of Federal Regulations, 45 C.F.R. Section 46.409(b), if an advocate has been appointed;
- (4) the medical team treating the foster child as well as the medical team conducting the drug research program; and
- (5) each individual who has significant knowledge of the foster child's medical history and condition, including any foster parent of the child. [FA1]

House Bill 1309
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

No equivalent provision.

SENATE VERSION (IE)

CONFERENCE

SECTION __. Section 244.0106(c), Human Resources Code is amended to read as follows:

(c) The rules adopted under this section must require:

(1) the Department of Family and Protective Services to:

(A) provide the department with access to relevant health and education information regarding a child; and

(B) require a child's caseworker to visit the child in person at least once each month while the child is committed to the department;

(2) the department to:

(A) provide the Department of Family and Protective Services with relevant health and education information regarding a child;

(B) permit communication, including in person, by telephone, and by mail, between a child committed to the department and:

(i) the Department of Family and Protective Services; and

(ii) the attorney ad litem, the guardian ad litem, and the volunteer advocate for the child; and

(C) provide the Department of Family and Protective Services and any attorney ad litem or guardian ad litem for the child with timely notice of the following events relating to the child:

(i) a meeting designed to develop or revise the individual case plan for the child;

(ii) in accordance with any participation protocols to which the Department of Family and Protective Services and the department agree, a medical appointment at which a person authorized to consent to medical care must participate as required by Section 266.004(i), Family Code;

(iii) an education meeting, including admission, review, or dismissal meetings for a child receiving special education;

(iv) a grievance or disciplinary hearing for the child;

House Bill 1309
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

(v) a report of abuse or neglect of the child; and
(vi) a significant change in medical condition of the child, as defined by Section 264.018 [~~266.005~~], Family Code; and
(3) the Department of Family and Protective Services and the department to participate in transition planning for the child through release from detention, release under supervision, and discharge. [FA1]

SECTION __.Sections 264.117, 264.119, and 266.005, Family Code, are repealed. [FA1]

No equivalent provision.