

By: Wu, et al.

H.B. No. 7

Substitute the following for H.B. No. 7:

By: Miller

C.S.H.B. No. 7

A BILL TO BE ENTITLED

AN ACT

relating to child protective services suits, motions, and services by the Department of Family and Protective Services.

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

SECTION 1. Section 58.0052, Family Code, is amended by adding Subsection (b-1) to read as follows:

(b-1) In addition to the information provided under Subsection (b), the Department of Family and Protective Services and the Texas Juvenile Justice Department shall coordinate and develop protocols for sharing with each other, on request, any other information relating to a multi-system youth necessary to:

(1) identify and coordinate the provision of services to the youth and prevent duplication of services;

(2) enhance rehabilitation of the youth; and

(3) improve and maintain community safety.

SECTION 2. Section 105.002, Family Code, is amended by adding Subsection (d) to read as follows:

(d) The Department of Family and Protective Services in collaboration with interested parties, including the Permanent Judicial Commission for Children, Youth and Families, shall review the form of jury submissions in this state and make recommendations to the legislature not later than December 31, 2017, regarding whether broad-form or specific jury questions should be required in suits affecting the parent-child relationship filed by the

1 department. This subsection expires September 1, 2019.

2 SECTION 3. Section 154.001, Family Code, is amended by
3 amending Subsection (b) and adding Subsection (b-1) to read as
4 follows:

5 (b) In a suit filed by the Department of Family and
6 Protective Services to be named managing conservator of a child,
7 the court may not order a parent of the child to make periodic
8 payments for the support of the child while the suit is pending,
9 except as provided by this section.

10 (b-1) Unless a court has determined a parent is indigent,
11 the [The] court may order either or both parents to make periodic
12 payments for the support of a child in a proceeding in which the
13 Department of Family and Protective [and Regulatory] Services is
14 named [temporary] managing conservator. [In a proceeding in which
15 the Department of Protective and Regulatory Services is named
16 permanent managing conservator of a child whose parents' rights
17 have not been terminated, the court shall order each parent that is
18 financially able to make periodic payments for the support of the
19 child.]

20 SECTION 4. Section 155.201, Family Code, is amended by
21 adding Subsection (d) to read as follows:

22 (d) On receiving notice that a court exercising
23 jurisdiction under Chapter 262 has ordered the transfer of a suit
24 under Section 262.203(a)(2), the court of continuing, exclusive
25 jurisdiction shall, pursuant to the requirements of Section
26 155.204(i), transfer the proceedings to the court in which the suit
27 under Chapter 262 is pending.

1 SECTION 5. Section 155.204(i), Family Code, is amended to
2 read as follows:

3 (i) If a transfer order has been signed by a court
4 exercising jurisdiction under Chapter 262, the Department of Family
5 and Protective Services shall [~~a party may~~] file the transfer order
6 with the clerk of the court of continuing, exclusive jurisdiction.
7 On receipt and without a hearing or further order from the court of
8 continuing, exclusive jurisdiction, the clerk of the court of
9 continuing, exclusive jurisdiction shall transfer the files as
10 provided by this subchapter.

11 SECTION 6. Section 161.001, Family Code, is amended by
12 adding Subsection (c) to read as follows:

13 (c) A court may not make a finding under Subsection (b) and
14 order termination of the parent-child relationship based on
15 evidence that the parent:

16 (1) homeschooled the child;
17 (2) is economically disadvantaged;
18 (3) engaged in reasonable discipline of the child; or
19 (4) has been charged with a nonviolent misdemeanor
20 offense other than:

21 (A) an offense under Title 5, Penal Code;
22 (B) an offense under Title 6, Penal Code; or
23 (C) an offense that involves family violence, as
24 defined by Section 71.004 of this code.

25 SECTION 7. Section 161.206, Family Code, is amended by
26 adding Subsection (a-1) to read as follows:

27 (a-1) In a suit filed by the Department of Family and

1 Protective Services seeking termination of the parent-child
2 relationship for more than one parent of the child, the court may
3 order termination of the parent-child relationship for a parent
4 only if the court finds by clear and convincing evidence grounds for
5 the termination of the parent-child relationship for that parent.

6 SECTION 8. Chapter 261, Family Code, is amended by adding
7 Subchapter F to read as follows:

8 SUBCHAPTER F. PROTECTIVE ORDER IN CERTAIN CASES OF ABUSE OR NEGLECT

9 Sec. 261.501. FILING APPLICATION FOR PROTECTIVE ORDER IN
10 CERTAIN CASES OF ABUSE OR NEGLECT. The department may file an
11 application for a protective order for a child's protection under
12 this subchapter on the department's own initiative or jointly with
13 a parent, relative, or caregiver of the child who requests the
14 filing of the application if the department:

15 (1) has temporary managing conservatorship of the
16 child;

17 (2) determines that:

18 (A) the child:

19 (i) is a victim of abuse or neglect; or

20 (ii) has a history of being abused or
21 neglected; and

22 (B) there is a threat of:

23 (i) immediate or continued abuse or neglect
24 to the child;

25 (ii) someone illegally taking the child
26 from the home in which the child is placed;

27 (iii) harassment to the caregiver with whom

1 the child is placed; or

2 (iv) someone committing an act of violence
3 against the child or the child's caregiver; and

4 (3) is not otherwise authorized to apply for a
5 protective order for the child's protection under Chapter 82.

6 Sec. 261.502. CERTIFICATION OF FINDINGS. (a) In making the
7 application under this subchapter, the department must certify
8 that:

9 (1) the department has diligently searched for and:

10 (A) was unable to locate the child's parent,
11 legal guardian, or custodian, other than the respondent to the
12 application; or

13 (B) located and provided notice of the proposed
14 application to the child's parent, legal guardian, or custodian,
15 other than the respondent to the application; and

16 (2) if applicable, the relative or caregiver who is
17 jointly filing the petition, or with whom the child would reside
18 following an entry of the protective order, has not abused or
19 neglected the child and does not have a history of abuse or neglect.

20 (b) An application for a temporary ex parte order under
21 Section 261.503 may be filed without making the findings required
22 by Subsection (a) if the department certifies that the department
23 believes that there is an immediate danger of abuse or neglect to
24 the child.

25 Sec. 261.503. TEMPORARY EX PARTE ORDER. If the court finds
26 from the information contained in an application for a protective
27 order that there is an immediate danger of abuse or neglect to the

1 child, the court, without further notice to the respondent and
2 without a hearing, may enter a temporary ex parte order for the
3 protection of the child.

4 Sec. 261.504. REQUIRED FINDINGS; ISSUANCE OF PROTECTIVE
5 ORDER. (a) At the close of a hearing on an application for a
6 protective order under this subchapter, the court shall find
7 whether there are reasonable grounds to believe that:

8 (1) the child:

9 (A) is a victim of abuse or neglect; or

10 (B) has a history of being abused or neglected;

11 and

12 (2) there is a threat of:

13 (A) immediate or continued abuse or neglect to
14 the child;

15 (B) someone illegally taking the child from the
16 home in which the child is placed;

17 (C) harassment to the caregiver with whom the
18 child is placed; or

19 (D) someone committing an act of violence against
20 the child or the child's caregiver.

21 (b) If the court makes an affirmative finding under
22 Subsection (a), the court shall issue a protective order that
23 includes a statement of that finding.

24 Sec. 261.505. APPLICATION OF OTHER LAW. To the extent
25 applicable, except as otherwise provided by this subchapter, Title
26 4 applies to a protective order issued under this subchapter.

27 SECTION 9. Subchapter A, Chapter 262, Family Code, is

1 amended by adding Section 262.0022 to read as follows:

2 Sec. 262.0022. REVIEW OF PLACEMENT; FINDINGS. At each
3 hearing under this chapter, the court shall review the placement of
4 each child in the temporary or permanent managing conservatorship
5 of the Department of Family and Protective Services who is not
6 placed with a relative caregiver or designated caregiver as defined
7 by Section 264.751. The court shall include in its findings a
8 statement on whether the department has the option of placing the
9 child with a relative or other designated caregiver.

10 SECTION 10. Subchapter A, Chapter 262, Family Code, is
11 amended by adding Sections 262.013 and 262.014 to read as follows:

12 Sec. 262.013. VOLUNTARY TEMPORARY MANAGING
13 CONSERVATORSHIP. In a suit affecting the parent-child relationship
14 filed by the Department of Family and Protective Services, the
15 existence of a parent's voluntary agreement to temporarily place
16 the parent's child in the managing conservatorship of the
17 Department of Family and Protective Services is not an admission by
18 the parent that the parent engaged in conduct that endangered the
19 child.

20 Sec. 262.014. DISCLOSURE OF CERTAIN EVIDENCE. On the
21 request of the attorney for a parent who is a party in a suit
22 affecting the parent-child relationship filed under this chapter,
23 or the attorney ad litem for the parent's child, the Department of
24 Family and Protective Services shall, before the full adversary
25 hearing, provide:

26 (1) the name of any person, excluding a department
27 employee, who the department will call as a witness to any of the

1 allegations contained in the petition filed by the department;

2 (2) a copy of any offense report relating to the
3 allegations contained in the petition filed by the department that
4 will be used in court to refresh a witness's memory; and

5 (3) a copy of any photograph, video, or recording that
6 will be presented as evidence.

7 SECTION 11. Section 262.113, Family Code, is amended to
8 read as follows:

9 Sec. 262.113. FILING SUIT WITHOUT TAKING POSSESSION OF
10 CHILD. An original suit filed by a governmental entity that
11 requests to take possession of a child after notice and a hearing
12 must be supported by an affidavit sworn to by a person with personal
13 knowledge and stating facts sufficient to satisfy a person of
14 ordinary prudence and caution that:

15 (1) there is a continuing danger to the physical
16 health or safety of the child caused by an act or failure to act of
17 the person entitled to possession of the child and that allowing the
18 child to remain in the home would be contrary to the child's
19 welfare; and

20 (2) reasonable efforts, consistent with the
21 circumstances and providing for the safety of the child, have been
22 made to prevent or eliminate the need to remove the child from the
23 child's home [~~, and~~

24 [~~(2) allowing the child to remain in the home would be~~
25 ~~contrary to the child's welfare]~~.

26 SECTION 12. Subchapter B, Chapter 262, Family Code, is
27 amended by adding Section 262.116 to read as follows:

1 Sec. 262.116. LIMITS ON REMOVAL. (a) The Department of
2 Family and Protective Services may not take possession of a child
3 under this subchapter based solely on evidence that the parent:

4 (1) homeschooled the child;

5 (2) is economically disadvantaged;

6 (3) engaged in reasonable discipline of the child; or

7 (4) has been charged with a nonviolent misdemeanor
8 offense other than:

9 (A) an offense under Title 5, Penal Code;

10 (B) an offense under Title 6, Penal Code; or

11 (C) an offense that involves family violence, as
12 defined by Section 71.004 of this code.

13 (b) The department shall train child protective services
14 caseworkers regarding the prohibitions on removal provided under
15 Subsection (a).

16 (c) The executive commissioner of the Health and Human
17 Services Commission may adopt rules to implement this section.

18 SECTION 13. Section 262.201, Family Code, is amended by
19 adding Subsection (a-5) to read as follows:

20 (a-5) If a parent who is not indigent appears in opposition
21 to the suit, the court may, for good cause shown, postpone the full
22 adversary hearing for not more than seven days from the date of the
23 parent's appearance to allow the parent to hire an attorney or to
24 provide the parent's attorney time to respond to the petition and
25 prepare for the hearing. A postponement under this subsection is
26 subject to the limits and requirements prescribed by Subsection
27 (a-3).

1 SECTION 14. Section 262.203(a), Family Code, is amended to
2 read as follows:

3 (a) On the motion of a party or the court's own motion, if
4 applicable, the court that rendered the temporary order shall in
5 accordance with procedures provided by Chapter 155:

6 (1) transfer the suit to the court of continuing,
7 exclusive jurisdiction, if any, if the court finds that the
8 transfer is:

9 (A) necessary for the convenience of the parties;
10 and

11 (B) in the best interest of the child;

12 (2) [~~if grounds exist for mandatory transfer from the~~
13 ~~court of continuing, exclusive jurisdiction under Section~~
14 ~~155.201,~~] order transfer of the suit from the [~~that~~] court of
15 continuing, exclusive jurisdiction; or

16 (3) if grounds exist for transfer based on improper
17 venue, order transfer of the suit to the court having venue of the
18 suit under Chapter 103.

19 SECTION 15. Subchapter C, Chapter 262, Family Code, is
20 amended by adding Section 262.206 to read as follows:

21 Sec. 262.206. EX PARTE HEARINGS PROHIBITED. Unless
22 otherwise authorized by this chapter or other law, a hearing held by
23 a court in a suit under this chapter may not be ex parte.

24 SECTION 16. Section 263.002, Family Code, is amended to
25 read as follows:

26 Sec. 263.002. REVIEW OF PLACEMENTS BY COURT; FINDINGS. (a)
27 In a suit affecting the parent-child relationship in which the

1 department has been appointed by the court or designated in an
2 affidavit of relinquishment of parental rights as the temporary or
3 permanent managing conservator of a child, the court shall hold a
4 hearing to review:

5 (1) the conservatorship appointment and substitute
6 care; and

7 (2) for a child committed to the Texas Juvenile
8 Justice Department, the child's commitment in the Texas Juvenile
9 Justice Department or release under supervision by the Texas
10 Juvenile Justice Department.

11 (b) At each hearing under this chapter, the court shall
12 review the placement of each child in the temporary or permanent
13 managing conservatorship of the department who is not placed with a
14 relative caregiver or designated caregiver as defined by Section
15 264.751. The court shall include in its findings a statement
16 whether the department placed the child with a relative or other
17 designated caregiver.

18 SECTION 17. Section 263.0021, Family Code, is amended by
19 adding Subsection (e) to read as follows:

20 (e) Notice of a hearing under this chapter provided to an
21 individual listed under Subsection (b)(2) must state that the
22 individual may, but is not required to, attend the hearing and may
23 request to be heard at the hearing.

24 SECTION 18. Section 263.102, Family Code, is amended by
25 amending Subsection (b) and adding Subsections (c) and (c-1) to
26 read as follows:

27 (b) The service plan must [~~shall~~] include the following

1 statement:

2 TO THE PARENT: THIS IS A VERY IMPORTANT DOCUMENT. THE [~~ITS~~]
3 PURPOSE OF THIS PLAN IS TO HELP YOU PROVIDE YOUR CHILD WITH A SAFE
4 ENVIRONMENT WITHIN THE REASONABLE PERIOD SPECIFIED IN THE PLAN. IF
5 YOU ARE UNWILLING OR UNABLE TO PROVIDE YOUR CHILD WITH A SAFE
6 ENVIRONMENT, YOUR PARENTAL AND CUSTODIAL DUTIES AND RIGHTS MAY BE
7 RESTRICTED OR TERMINATED OR YOUR CHILD MAY NOT BE RETURNED TO YOU.
8 AT [~~THERE WILL BE~~] A COURT HEARING, [~~AT WHICH~~] A JUDGE WILL REVIEW
9 THIS SERVICE PLAN, MODIFY THE PLAN IF NECESSARY, AND REQUIRE
10 COMPLIANCE WITH THE PLAN. A SUBSEQUENT HEARING MAY BE SCHEDULED AT
11 WHICH A JUDGE MAY REVIEW THE PLAN.

12 (c) A service plan may not include an allegation of abuse or
13 neglect of the child or a restatement of the facts of the case. An
14 allegation of abuse or neglect or a restatement of the facts of the
15 case in a service plan is inadmissible in the court as evidence.

16 (c-1) Not later than the fifth business day after a hearing
17 held under Section 262.201, the department shall:

18 (1) make all referrals necessary for each parent to
19 comply with a judge's order for services; and

20 (2) provide to the parents any information available
21 to the department on providers approved by the department to
22 provide services in the service area in which the parent resides.

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

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

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

- 1 (2) review the efforts of the department in:
- 2 (A) attempting to locate all necessary persons;
- 3 (B) requesting service of citation; and
- 4 (C) obtaining the assistance of a parent in
- 5 providing information necessary to locate an absent parent, alleged
- 6 father, or relative of the child;
- 7 (3) review the efforts of each custodial parent,
- 8 alleged father, or relative of the child before the court in
- 9 providing information necessary to locate another absent parent,
- 10 alleged father, or relative of the child;
- 11 (4) review any visitation plan or amended plan
- 12 required under Section 263.107 and render any orders for visitation
- 13 the court determines necessary;
- 14 (5) return the child to the parent or parents if the
- 15 child's parent or parents are willing and able to provide the child
- 16 with a safe environment and the return of the child is in the
- 17 child's best interest;
- 18 (6) place the child with a person or entity, other than
- 19 a parent, entitled to service under Chapter 102 if the person or
- 20 entity is willing and able to provide the child with a safe
- 21 environment and the placement of the child is in the child's best
- 22 interest;
- 23 (7) evaluate the department's efforts to identify
- 24 relatives who could provide the child with a safe environment, if
- 25 the child is not returned to a parent or another person or entity
- 26 entitled to service under Chapter 102;
- 27 (8) evaluate the parties' compliance with temporary

1 orders and the service plan;

2 (9) ask all parties present whether the child or the
3 child's family has a Native American heritage and identify any
4 Native American tribe with which the child may be associated;

5 (10) identify an education decision-maker for the
6 child if one has not previously been identified;

7 (11) review the medical care provided to the child as
8 required by Section 266.007;

9 (12) ensure the child has been provided the
10 opportunity, in a developmentally appropriate manner, to express
11 the child's opinion on the medical care provided;

12 (13) for a child receiving psychotropic medication,
13 determine whether the child:

14 (A) has been provided appropriate psychosocial
15 therapies, behavior strategies, and other non-pharmacological
16 interventions; and

17 (B) has been seen by the prescribing physician,
18 physician assistant, or advanced practice nurse at least once every
19 90 days for purposes of the review required by Section 266.011;

20 (14) determine whether:

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

22 (B) the department has placed the child with a
23 relative or other designated caregiver and whether the child's
24 current placement is appropriate for meeting the child's needs,
25 including with respect to a child who has been placed outside of the
26 state, whether that placement continues to be in the best interest
27 of the child; and

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

3 (15) if the child is placed in institutional care,
4 determine whether efforts have been made to ensure placement of the
5 child in the least restrictive environment consistent with the best
6 interest and special needs of the child;

7 (16) if the child is 16 years of age or older, order
8 services that are needed to assist the child in making the
9 transition from substitute care to independent living if the
10 services are available in the community;

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

14 (18) if the child is committed to the Texas Juvenile
15 Justice Department or released under supervision by the Texas
16 Juvenile Justice Department, determine whether the child's needs
17 for treatment, rehabilitation, and education are being met; and

18 (19) determine the date for dismissal of the suit
19 under this chapter and give notice in open court to all parties of:

20 (A) the dismissal date;

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

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

23 SECTION 20. Section [263.401](#), Family Code, is amended to
24 read as follows:

25 Sec. 263.401. DISMISSAL AFTER ONE YEAR; NEW TRIALS;
26 EXTENSION. (a) Unless the court has commenced the trial on the
27 merits or granted an extension under Subsection (b) or (b-1), on the

1 first Monday after the first anniversary of the date the court
2 rendered a temporary order appointing the department as temporary
3 managing conservator, the court's jurisdiction over [~~court shall~~
4 ~~dismiss~~] the suit affecting the parent-child relationship filed by
5 the department that requests termination of the parent-child
6 relationship or requests that the department be named conservator
7 of the child is terminated and the suit is automatically dismissed
8 without a court order.

9 (b) Unless the court has commenced the trial on the merits,
10 the court may not retain the suit on the court's docket after the
11 time described by Subsection (a) unless the court finds that
12 extraordinary circumstances necessitate the child remaining in the
13 temporary managing conservatorship of the department and that
14 continuing the appointment of the department as temporary managing
15 conservator is in the best interest of the child. If the court
16 makes those findings, the court may retain the suit on the court's
17 docket for a period not to exceed 180 days after the time described
18 by Subsection (a). If the court retains the suit on the court's
19 docket, the court shall render an order in which the court:

20 (1) schedules the new date on which the suit will be
21 automatically dismissed if the trial on the merits has not
22 commenced, which date must be not later than the 180th day after the
23 time described by Subsection (a);

24 (2) makes further temporary orders for the safety and
25 welfare of the child as necessary to avoid further delay in
26 resolving the suit; and

27 (3) sets the trial on the merits on a date not later

1 than the date specified under Subdivision (1).

2 (b-1) If, after commencement of the initial trial on the
3 merits within the time required by Subsection (a) or (b), the court
4 grants a motion for a new trial or mistrial, or the case is remanded
5 to the court by an appellate court following an appeal of the
6 court's final order, the court shall retain the suit on the court's
7 docket and render an order in which the court:

8 (1) schedules a new date on which the suit will be
9 automatically dismissed if the new trial has not commenced, which
10 must be a date not later than the 180th day after the date on which:

11 (A) the motion for a new trial or mistrial is
12 granted; or

13 (B) the appellate court remanded the case;

14 (2) makes further temporary orders for the safety and
15 welfare of the child as necessary to avoid further delay in
16 resolving the suit; and

17 (3) sets the new trial on the merits for a date not
18 later than the date specified under Subdivision (1).

19 (c) If the court grants an extension under Subsection (b) or
20 (b-1) but does not commence the trial on the merits before the
21 dismissal date, the court's jurisdiction over ~~[court shall dismiss]~~
22 the suit is terminated and the suit is automatically dismissed
23 without a court order. The court may not grant an additional
24 extension that extends the suit beyond the required date for
25 dismissal under Subsection (b) or (b-1), as applicable.

26 SECTION 21. Section 263.403, Family Code, is amended by
27 amending Subsections (a) and (c) and adding Subsection (a-1) to

1 read as follows:

2 (a) Notwithstanding Section 263.401, the court may retain
3 jurisdiction and not dismiss the suit or render a final order as
4 required by that section if the court renders a temporary order
5 that:

6 (1) finds that retaining jurisdiction under this
7 section is in the best interest of the child;

8 (2) orders the department to:

9 (A) return the child to the child's parent; or

10 (B) transition the child, according to a schedule
11 determined by the department or court, from substitute care to the
12 parent while the parent completes the remaining requirements
13 imposed under a service plan and specified in the temporary order
14 that are necessary for the child's return;

15 (3) orders the department to continue to serve as
16 temporary managing conservator of the child; and

17 (4) orders the department to monitor the child's
18 placement to ensure that the child is in a safe environment.

19 (a-1) The department may request the court to retain
20 jurisdiction for an additional six months as necessary for a parent
21 to complete the remaining requirements in a service plan and
22 specified in the temporary order that are mandatory for the child's
23 return.

24 (c) If before the dismissal of the suit or the commencement
25 of the trial on the merits a child placed with a parent under this
26 section must be moved from that home by the department or the court
27 renders a temporary order terminating the transition order issued

1 under Subsection (a)(2)(B) [~~before the dismissal of the suit or the~~
2 ~~commencement of the trial on the merits~~], the court shall, at the
3 time of the move or order, schedule a new date for dismissal of the
4 suit [~~unless a trial on the merits has commenced~~]. The new
5 dismissal date may not be later than the original dismissal date
6 established under Section 263.401 or the 180th day after the date
7 the child is moved or the order is rendered under this subsection,
8 whichever date is later.

9 SECTION 22. Subchapter E, Chapter 263, Family Code, is
10 amended by adding Section 263.4055 to read as follows:

11 Sec. 263.4055. SUPREME COURT RULES. The supreme court by
12 rule shall establish civil and appellate procedures to address:

13 (1) conflicts between the filing of a motion for new
14 trial and the filing of an appeal of a final order rendered under
15 this chapter; and

16 (2) the period, including an extension of at least 20
17 days, for a court reporter to submit the reporter's record of a
18 trial to an appellate court following a final order rendered under
19 this chapter.

20 SECTION 23. Section 263.5031, Family Code, is amended to
21 read as follows:

22 Sec. 263.5031. PERMANENCY HEARINGS FOLLOWING FINAL
23 ORDER. At each permanency hearing after the court renders a final
24 order, the court shall:

25 (1) identify all persons and parties present at the
26 hearing;

27 (2) review the efforts of the department or other

1 agency in notifying persons entitled to notice under Section
2 [263.0021](#); and

3 (3) review the permanency progress report to
4 determine:

5 (A) the safety and well-being of the child and
6 whether the child's needs, including any medical or special needs,
7 are being adequately addressed;

8 (B) whether the department placed the child with
9 a relative or other designated caregiver and the continuing
10 necessity and appropriateness of the placement of the child,
11 including with respect to a child who has been placed outside of
12 this state, whether the placement continues to be in the best
13 interest of the child;

14 (C) if the child is placed in institutional care,
15 whether efforts have been made to ensure that the child is placed in
16 the least restrictive environment consistent with the child's best
17 interest and special needs;

18 (D) the appropriateness of the primary and
19 alternative permanency goals for the child, whether the department
20 has made reasonable efforts to finalize the permanency plan,
21 including the concurrent permanency goals, in effect for the child,
22 and whether:

23 (i) the department has exercised due
24 diligence in attempting to place the child for adoption if parental
25 rights to the child have been terminated and the child is eligible
26 for adoption; or

27 (ii) another permanent placement,

1 including appointing a relative as permanent managing conservator
2 or returning the child to a parent, is appropriate for the child;

3 (E) for a child whose permanency goal is another
4 planned permanent living arrangement:

5 (i) the desired permanency outcome for the
6 child, by asking the child; and

7 (ii) whether, as of the date of the hearing,
8 another planned permanent living arrangement is the best permanency
9 plan for the child and, if so, provide compelling reasons why it
10 continues to not be in the best interest of the child to:

- 11 (a) return home;
- 12 (b) be placed for adoption;
- 13 (c) be placed with a legal guardian;
- 14 or
- 15 (d) be placed with a fit and willing
16 relative;

17 (F) if the child is 14 years of age or older,
18 whether services that are needed to assist the child in
19 transitioning from substitute care to independent living are
20 available in the child's community;

21 (G) whether the child is receiving appropriate
22 medical care and has been provided the opportunity, in a
23 developmentally appropriate manner, to express the child's opinion
24 on any medical care provided;

25 (H) for a child receiving psychotropic
26 medication, whether the child:

27 (i) has been provided appropriate

1 nonpharmacological interventions, therapies, or strategies to meet
2 the child's needs; or

3 (ii) has been seen by the prescribing
4 physician, physician assistant, or advanced practice nurse at least
5 once every 90 days;

6 (I) whether an education decision-maker for the
7 child has been identified, the child's education needs and goals
8 have been identified and addressed, and there are major changes in
9 the child's school performance or there have been serious
10 disciplinary events;

11 (J) for a child for whom the department has been
12 named managing conservator in a final order that does not include
13 termination of parental rights, whether to order the department to
14 provide services to a parent for not more than six months after the
15 date of the permanency hearing if:

16 (i) the child has not been placed with a
17 relative or other individual, including a foster parent, who is
18 seeking permanent managing conservatorship of the child; and

19 (ii) the court determines that further
20 efforts at reunification with a parent are:

21 (a) in the best interest of the child;

22 and

23 (b) likely to result in the child's
24 safe return to the child's parent; and

25 (K) whether the department has identified a
26 family or other caring adult who has made a permanent commitment to
27 the child.

1 SECTION 24. Section 264.018, Family Code, is amended by
2 amending Subsection (f) and adding Subsections (f-1), (f-2), and
3 (f-3) to read as follows:

4 (f) Except as provided by Subsection (f-1) or (f-2), as [As]
5 soon as possible but not later than the 10th day after the date the
6 department becomes aware of a significant event affecting a child
7 in the conservatorship of the department, the department shall
8 provide notice of the significant event to:

9 (1) the child's parent;

10 (2) an attorney ad litem appointed for the child under
11 Chapter 107;

12 (3) a guardian ad litem appointed for the child under
13 Chapter 107;

14 (4) a volunteer advocate appointed for the child under
15 Chapter 107;

16 (5) the licensed administrator of the child-placing
17 agency responsible for placing the child or the licensed
18 administrator's designee;

19 (6) a foster parent, prospective adoptive parent,
20 relative of the child providing care to the child, or director of
21 the group home or general residential operation where the child is
22 residing; and

23 (7) any other person determined by a court to have an
24 interest in the child's welfare.

25 (f-1) As soon as possible after the department becomes aware
26 of a change in placement of a child in the conservatorship of the
27 department, the department shall give notice of the placement

1 change to the managed care organization that contracts with the
2 commission to provide health care services to the child under the
3 STAR Health program. The managed care organization, in
4 coordination with the department, shall give notice of the
5 placement change to the primary care physician listed in the
6 child's health passport.

7 (f-2) As soon as possible but not later than the fifth day
8 after the date a child-placing agency notifies the department of
9 the agency's intent to change the placement of a child in the
10 conservatorship of the department, the department shall give notice
11 of the impending placement change and the reason given for the
12 placement change to:

13 (1) the child's parent;

14 (2) an attorney ad litem appointed for the child under
15 Chapter 107;

16 (3) a guardian ad litem appointed for the child under
17 Chapter 107;

18 (4) a volunteer advocate appointed for the child under
19 Chapter 107;

20 (5) a foster parent, prospective adoptive parent,
21 relative of the child providing care to the child, or director of
22 the group home or general residential operation where the child is
23 residing; and

24 (6) any other person determined by a court to have an
25 interest in the child's welfare.

26 (f-3) As soon as possible but not later than the fifth day
27 after the date a foster parent requests the removal of a child in

1 the conservatorship of the department from the foster home, the
2 department shall give notice of the impending placement change to:

3 (1) the child's parent;

4 (2) an attorney ad litem appointed for the child under
5 Chapter 107;

6 (3) a guardian ad litem appointed for the child under
7 Chapter 107;

8 (4) a volunteer advocate appointed for the child under
9 Chapter 107;

10 (5) the licensed administrator of the child-placing
11 agency responsible for placing the child or the licensed
12 administrator's designee; and

13 (6) any other person determined by a court to have an
14 interest in the child's welfare.

15 SECTION 25. Section 264.121, Family Code, is amended by
16 adding Subsections (a-3), (a-4), and (a-5) to read as follows:

17 (a-3) The department shall conduct an independent living
18 skills assessment for all youth 14 years of age or older in the
19 department's conservatorship. The department shall annually
20 update the assessment for each youth in the department's
21 conservatorship to determine the independent living skills the
22 youth learned during the preceding year to ensure the department's
23 obligation to prepare the youth for independent living has been
24 met.

25 (a-4) The annual update of the independent living skills
26 assessment required under Subsection (a-3) must be conducted
27 through the child's plan of service in coordination with the child,

1 the caseworker, the Preparation for Adult Living Program staff, and
2 the child's caregiver.

3 (a-5) The department shall work with interested parties to
4 develop a plan to standardize the curriculum for the Preparation
5 for Adult Living Program that ensures youth 14 years of age or older
6 enrolled in the program receive relevant and age-appropriate
7 information and training. The department shall report the plan to
8 the legislature not later than December 1, 2018. This subsection
9 expires September 1, 2019.

10 SECTION 26. The heading to Chapter 266, Family Code, is
11 amended to read as follows:

12 CHAPTER 266. MEDICAL CARE AND EDUCATIONAL SERVICES FOR CHILDREN IN
13 CONSERVATORSHIP OF DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES
14 [FOSTER CARE]

15 SECTION 27. Chapter 266, Family Code, is amended by adding
16 Section 266.005 to read as follows:

17 Sec. 266.005. CONSULTATION FOR MEDICAL CARE. (a) A court
18 may not render an order requiring or prohibiting medical care,
19 including mental health care, for a child in the conservatorship of
20 the department unless:

21 (1) the court finds that a medical or mental health
22 professional, as appropriate, has been consulted regarding the
23 proposed or prohibited care; and

24 (2) the medical or mental health professional has
25 confirmed in writing that the medical or mental health treatment is
26 medically necessary or, for an order prohibiting specific medical
27 care, that the prohibition would not prevent the child from

1 receiving medically necessary care.

2 (b) Subsection (a) does not apply to a court order for
3 emergency medical care, including mental health care, for a child
4 in the conservatorship of the department.

5 SECTION 28. Subchapter A, Chapter 533, Government Code, is
6 amended by adding Section 533.0056 to read as follows:

7 Sec. 533.0056. STAR HEALTH PROGRAM: NOTIFICATION OF
8 PLACEMENT CHANGE. A contract between a managed care organization
9 and the commission for the organization to provide health care
10 services to recipients under the STAR Health program must require
11 the organization to ensure continuity of care for a child whose
12 placement has changed by:

13 (1) notifying each specialist treating the child of
14 the placement change; and

15 (2) coordinating the transition of care from the
16 child's previous treating primary care physician and treating
17 specialists to the child's new treating primary care physician and
18 treating specialists, if any.

19 SECTION 29. Subchapter C, Chapter 42, Human Resources Code,
20 is amended by adding Section 42.066 to read as follows:

21 Sec. 42.066. REQUIRED SUBMISSION OF INFORMATION REQUESTED
22 BY COURT. A general residential operation that provides mental
23 health treatment or services to a child in the managing
24 conservatorship of the department shall timely submit to the court
25 in a suit affecting the parent-child relationship under Subtitle E,
26 Title 5, Family Code, all information requested by that court.

27 SECTION 30. The heading to Section 25.07, Penal Code, is

1 amended to read as follows:

2 Sec. 25.07. VIOLATION OF CERTAIN COURT ORDERS OR CONDITIONS
3 OF BOND IN A FAMILY VIOLENCE, CHILD ABUSE OR NEGLECT, SEXUAL ASSAULT
4 OR ABUSE, STALKING, OR TRAFFICKING CASE.

5 SECTION 31. Section 25.07(a), Penal Code, is amended to
6 read as follows:

7 (a) A person commits an offense if, in violation of a
8 condition of bond set in a family violence, sexual assault or abuse,
9 stalking, or trafficking case and related to the safety of a victim
10 or the safety of the community, an order issued under Chapter 7A,
11 Code of Criminal Procedure, an order issued under Article 17.292,
12 Code of Criminal Procedure, an order issued under Section 6.504,
13 Family Code, Chapter 83, Family Code, if the temporary ex parte
14 order has been served on the person, [~~or~~] Chapter 85, Family Code,
15 or Subchapter F, Chapter 261, Family Code, or an order issued by
16 another jurisdiction as provided by Chapter 88, Family Code, the
17 person knowingly or intentionally:

18 (1) commits family violence or an act in furtherance
19 of an offense under Section 20A.02, 22.011, 22.021, or 42.072;

20 (2) communicates:

21 (A) directly with a protected individual or a
22 member of the family or household in a threatening or harassing
23 manner;

24 (B) a threat through any person to a protected
25 individual or a member of the family or household; or

26 (C) in any manner with the protected individual
27 or a member of the family or household except through the person's

1 attorney or a person appointed by the court, if the violation is of
2 an order described by this subsection and the order prohibits any
3 communication with a protected individual or a member of the family
4 or household;

5 (3) goes to or near any of the following places as
6 specifically described in the order or condition of bond:

7 (A) the residence or place of employment or
8 business of a protected individual or a member of the family or
9 household; or

10 (B) any child care facility, residence, or school
11 where a child protected by the order or condition of bond normally
12 resides or attends;

13 (4) possesses a firearm;

14 (5) harms, threatens, or interferes with the care,
15 custody, or control of a pet, companion animal, or assistance
16 animal that is possessed by a person protected by the order or
17 condition of bond; or

18 (6) removes, attempts to remove, or otherwise tampers
19 with the normal functioning of a global positioning monitoring
20 system.

21 SECTION 32. The heading to Section 25.072, Penal Code, is
22 amended to read as follows:

23 Sec. 25.072. REPEATED VIOLATION OF CERTAIN COURT ORDERS OR
24 CONDITIONS OF BOND IN FAMILY VIOLENCE, CHILD ABUSE OR NEGLECT,
25 SEXUAL ASSAULT OR ABUSE, STALKING, OR TRAFFICKING CASE.

26 SECTION 33. (a) The changes in law made by this Act apply
27 only to a service plan filed for a full adversary hearing held under

1 Section 262.201, Family Code, or a status hearing held under
2 Chapter 263, Family Code, on or after January 1, 2018. A hearing
3 held before that date is governed by the law in effect immediately
4 before the effective date of this Act, and that law is continued in
5 effect for that purpose.

6 (b) The changes made by this Act to Section 263.401, Family
7 Code, apply only to a suit affecting the parent-child relationship
8 pending in a trial court on the effective date of this Act or filed
9 on or after the effective date of this Act. A suit affecting the
10 parent-child relationship in which a final order is rendered before
11 the effective date of this Act is governed by the law in effect on
12 the date the order was rendered, and the former law is continued in
13 effect for that purpose.

14 (c) Except as otherwise provided by this section, the
15 changes in law made by this Act apply only to a suit affecting the
16 parent-child relationship filed on or after the effective date of
17 this Act. A suit affecting the parent-child relationship filed
18 before the effective date of this Act is subject to the law in
19 effect at the time the suit was filed, and the former law is
20 continued in effect for that purpose.

21 (d) Except as otherwise provided by this section, the
22 changes in law made by this Act apply only to a contract for the
23 provision of health care services under the STAR Health program
24 between the Health and Human Services Commission and a managed care
25 organization under Chapter 533, Government Code, that is entered
26 into or renewed on or after the effective date of this Act.

27 (e) If before implementing Section 533.0056, Government

1 Code, as added by this Act, the Health and Human Services Commission
2 determines that a waiver or authorization from a federal agency is
3 necessary for implementation of that provision, the health and
4 human services agency affected by the provision shall request the
5 waiver or authorization and may delay implementing that provision
6 until the waiver or authorization is granted.

7 SECTION 34. To the extent of any conflict, this Act prevails
8 over another Act of the 85th Legislature, Regular Session, 2017,
9 relating to nonsubstantive additions to and corrections in enacted
10 codes.

11 SECTION 35. This Act takes effect September 1, 2017.