

1-1 By: González of El Paso, et al. H.B. No. 1556
 1-2 (Senate Sponsor - Menéndez)
 1-3 (In the Senate - Received from the House May 8, 2017;
 1-4 May 9, 2017, read first time and referred to Committee on Health &
 1-5 Human Services; May 22, 2017, reported adversely, with favorable
 1-6 Committee Substitute by the following vote: Yeas 8, Nays 0;
 1-7 May 22, 2017, sent to printer.)

1-8 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-9				
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16			X	
1-17	X			
1-18	X			

1-19 COMMITTEE SUBSTITUTE FOR H.B. No. 1556 By: Burton

1-20 A BILL TO BE ENTITLED
 1-21 AN ACT

1-22 relating to the appointment of foster parents and other qualified
 1-23 persons to serve as educational decision-makers for certain
 1-24 children in the conservatorship of the Department of Family and
 1-25 Protective Services.

1-26 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-27 SECTION 1. Section 29.015, Education Code, is amended to
 1-28 read as follows:

1-29 Sec. 29.015. SPECIAL EDUCATION DECISION-MAKING FOR
 1-30 CHILDREN IN FOSTER CARE [~~FOSTER PARENTS~~]. (a) [~~The school district~~
 1-31 ~~shall give preferential consideration to a foster parent of a child~~
 1-32 ~~with a disability when assigning a surrogate parent for the child.~~

1-33 [~~(b)~~] A foster parent may act as a parent of a child with a
 1-34 disability, as authorized under 20 U.S.C. Section 1415(b) and its
 1-35 subsequent amendments, if:

1-36 (1) the Department of Family and Protective [~~and~~
 1-37 ~~Regulatory~~] Services is appointed as the temporary or permanent
 1-38 managing conservator of the child;

1-39 (2) the rights and duties of the department to make
 1-40 decisions regarding education provided to the child under Section
 1-41 153.371, Family Code, have not been limited by court order [~~the~~
 1-42 ~~child has been placed with the foster parent for at least 60 days];
 1-43 and~~

1-44 (3) the foster parent agrees to:

1-45 (A) participate in making special education
 1-46 [educational] decisions on the child's behalf; and

1-47 (B) complete a training program [~~for surrogate~~
 1-48 ~~parents] that complies with minimum standards established by agency
 1-49 rule [~~, and~~~~

1-50 [~~(4) the foster parent has no interest that conflicts~~
 1-51 ~~with the child's interests].~~

1-52 (b) A foster parent who will act as a parent of a child with
 1-53 a disability as provided by Subsection (a) must complete a training
 1-54 program before the next scheduled admission, review, and dismissal
 1-55 committee meeting for the child but not later than the 90th day
 1-56 after the date the foster parent begins acting as the parent for the
 1-57 purpose of making special education decisions.

1-58 (b-1) A school district may not require a foster parent to
 1-59 retake a training program to continue serving as a child's parent or
 1-60 to serve as the surrogate parent for another child if the foster

2-1 parent has completed a training program to act as a parent of a
 2-2 child with a disability provided by:
 2-3 (1) the Department of Family and Protective Services;
 2-4 (2) a school district;
 2-5 (3) an education service center; or
 2-6 (4) any other entity that receives federal funds to
 2-7 provide special education training to parents.
 2-8 (c) A foster parent who is denied the right to act as a
 2-9 [~~surrogate parent or a~~] parent under this section by a school
 2-10 district may file a complaint with the agency in accordance with
 2-11 federal law and regulations.
 2-12 (d) Not later than the fifth day after the date a child with
 2-13 a disability is enrolled in a school, the Department of Family and
 2-14 Protective Services must inform the appropriate school district if
 2-15 the child's foster parent is unwilling or unable to serve as a
 2-16 parent for the purposes of this subchapter.
 2-17 SECTION 2. Subchapter A, Chapter 29, Education Code, is
 2-18 amended by adding Section 29.0151 to read as follows:
 2-19 Sec. 29.0151. APPOINTMENT OF SURROGATE PARENT FOR CERTAIN
 2-20 CHILDREN. (a) This section applies to a child with a disability for
 2-21 whom:
 2-22 (1) the Department of Family and Protective Services
 2-23 is appointed as the temporary or permanent managing conservator of
 2-24 the child; and
 2-25 (2) the rights and duties of the department to make
 2-26 decisions regarding the child's education under Section 153.371,
 2-27 Family Code, have not been limited by court order.
 2-28 (b) Except as provided by Section 263.0025, Family Code, a
 2-29 school district must appoint an individual to serve as the
 2-30 surrogate parent for a child if:
 2-31 (1) the district is unable to identify or locate a
 2-32 parent for a child with a disability; or
 2-33 (2) the foster parent of a child is unwilling or unable
 2-34 to serve as a parent for the purposes of this subchapter.
 2-35 (c) A surrogate parent appointed by a school district may
 2-36 not:
 2-37 (1) be an employee of the state, the school district,
 2-38 or any other agency involved in the education or care of the child;
 2-39 or
 2-40 (2) have any interest that conflicts with the
 2-41 interests of the child.
 2-42 (d) A surrogate parent appointed by a district must:
 2-43 (1) be willing to serve in that capacity;
 2-44 (2) exercise independent judgment in pursuing the
 2-45 child's interests;
 2-46 (3) ensure that the child's due process rights under
 2-47 applicable state and federal laws are not violated;
 2-48 (4) complete a training program that complies with
 2-49 minimum standards established by agency rule within the time
 2-50 specified in Section 29.015(b);
 2-51 (5) visit the child and the school where the child is
 2-52 enrolled;
 2-53 (6) review the child's educational records;
 2-54 (7) consult with any person involved in the child's
 2-55 education, including the child's:
 2-56 (A) teachers;
 2-57 (B) caseworkers;
 2-58 (C) court-appointed volunteers;
 2-59 (D) guardian ad litem;
 2-60 (E) attorney ad litem;
 2-61 (F) foster parent; and
 2-62 (G) caregiver; and
 2-63 (8) attend meetings of the child's admission, review,
 2-64 and dismissal committee.
 2-65 (e) The district may appoint a person who has been appointed
 2-66 to serve as a child's guardian ad litem or as a court-certified
 2-67 volunteer advocate, as provided under Section 107.031(c), Family
 2-68 Code, as the child's surrogate parent.
 2-69 (f) If a court appoints a surrogate parent for a child with a

3-1 disability under Section 263.0025, Family Code, and the school
3-2 district determines that the surrogate parent is failing to perform
3-3 or is not properly performing the duties listed under Subsection
3-4 (d), the district shall consult with the Department of Family and
3-5 Protective Services and appoint another person to serve as the
3-6 surrogate parent for the child.

3-7 (g) On receiving notice from a school district under
3-8 Subsection (f), the Department of Family and Protective Services
3-9 must promptly notify the court of the failure of the appointed
3-10 surrogate parent to properly perform the duties required under this
3-11 section.

3-12 SECTION 3. Section 107.031(c), Family Code, is amended to
3-13 read as follows:

3-14 (c) A court-certified volunteer advocate appointed under
3-15 this section may be assigned to act as a surrogate parent for the
3-16 child, as provided by 20 U.S.C. Section 1415(b), if:

3-17 (1) the child is in the conservatorship of the
3-18 Department of Family and Protective Services;

3-19 (2) the volunteer advocate is serving as guardian ad
3-20 litem for the child; ~~and~~

3-21 (3) a foster parent of the child is not acting as the
3-22 child's parent under Section 29.015, Education Code; and

3-23 (4) the volunteer advocate completes a training
3-24 program for surrogate parents that complies with minimum standards
3-25 established by rule by the Texas Education Agency within the time
3-26 specified by Section 29.015(b), Education Code.

3-27 SECTION 4. Section 263.0025, Family Code, is amended to
3-28 read as follows:

3-29 Sec. 263.0025. SPECIAL EDUCATION DECISION-MAKING FOR
3-30 CHILDREN IN FOSTER CARE ~~[APPOINTMENT OF SURROGATE PARENT]~~. (a) In
3-31 this section, "child" means a child in the temporary or permanent
3-32 managing conservatorship of the department who is eligible under
3-33 Section 29.003, Education Code, to participate in a school
3-34 district's special education program. ~~[If a child in the temporary
3-35 or permanent conservatorship of the department is eligible under
3-36 Section 29.003, Education Code, to participate in a school
3-37 district's special education program, the court may, when necessary
3-38 to ensure that the educational rights of the child are protected,
3-39 appoint a surrogate parent who:~~

3-40 ~~[(1) is willing to serve in that capacity; and~~

3-41 ~~[(2) meets the requirements of 20 U.S.C. Section
3-42 1415(b) and Section 29.001(10), Education Code.]~~

3-43 (a-1) A foster parent for a child may act as a parent for the
3-44 child, as authorized under 20 U.S.C. Section 1415(b), if:

3-45 (1) the rights and duties of the department to make
3-46 decisions regarding the child's education under Section 153.371
3-47 have not been limited by court order; and

3-48 (2) the foster parent agrees to the requirements of
3-49 Sections 29.015(a)(3) and (b), Education Code.

3-50 (a-2) Sections 29.015(b-1), (c), and (d), Education Code,
3-51 apply to a foster parent who acts or desires to act as a parent for a
3-52 child for the purpose of making special education decisions.

3-53 (b) To ensure the educational rights of a child are
3-54 protected in the special education process, the court may appoint a
3-55 surrogate parent for the child if:

3-56 (1) the child's school district is unable to identify
3-57 or locate a parent for the child; or

3-58 (2) the foster parent of the child is unwilling or
3-59 unable to serve as a parent for the purposes of this subchapter ~~[In
3-60 appointing a surrogate parent for a child, the court shall give
3-61 preferential consideration to a foster parent of the child as
3-62 required under Section 29.015, Education Code].~~

3-63 (c) Except as provided by Subsection (d), the court may
3-64 appoint a person to serve as a child's surrogate parent if the
3-65 person:

3-66 (1) is willing to serve in that capacity; and

3-67 (2) meets the requirements of 20 U.S.C. Section
3-68 1415(b) ~~[If the court does not appoint a child's foster parent to
3-69 serve as the child's surrogate parent, the court shall give~~

4-1 consideration to:

4-2 [~~(1) a relative or other designated caregiver as~~
4-3 ~~defined by Section 264.751, or~~

4-4 [~~(2) a court-appointed volunteer advocate who has been~~
4-5 ~~appointed to serve as the child's guardian ad litem, as provided by~~
4-6 ~~Section 107.031(e)].~~

4-7 (d) The following persons may not be appointed as a
4-8 surrogate parent for the child:

4-9 (1) an employee of the department;

4-10 (2) an employee of the Texas Education Agency;

4-11 (3) an employee of a school or school district; or

4-12 (4) an employee of any other agency that is involved in
4-13 the education or care of the child.

4-14 (e) The court may appoint a child's guardian ad litem or
4-15 court-certified volunteer advocate, as provided by Section
4-16 107.031(c), as the child's surrogate parent.

4-17 (f) In appointing a person to serve as the surrogate parent
4-18 for a child, the court may consider the person's ability to meet the
4-19 qualifications listed under Sections 29.0151(d)(2)-(8), Education
4-20 Code.

4-21 (g) If the court prescribes training for a person who is
4-22 appointed as the surrogate parent for a child, the training program
4-23 must comply with the minimum standards for training established by
4-24 rule by the Texas Education Agency.

4-25 SECTION 5. This Act takes effect September 1, 2017.

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