

By: Klick, Bernal

H.B. No. 3561

Substitute the following for H.B. No. 3561:

By: Keough

C.S.H.B. No. 3561

A BILL TO BE ENTITLED

AN ACT

relating to assistance for foster children, homeless children or youth, and unaccompanied youth.

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

SECTION 1. Article 45.0491, Code of Criminal Procedure, is amended to read as follows:

Art. 45.0491. WAIVER OF PAYMENT OF FINES AND COSTS FOR INDIGENT DEFENDANTS AND CHILDREN. (a) A municipal court, regardless of whether the court is a court of record, or a justice court may waive payment of a fine or costs imposed on a defendant who defaults in payment if the court determines that:

(1) the defendant is indigent or was, at the time the offense was committed, a child as defined by Article 45.058(h); and

(2) discharging the fine and costs under Article 45.049 or as otherwise authorized by this chapter would impose an undue hardship on the defendant.

(b) A defendant is presumed to be indigent if the defendant:

(1) is in the conservatorship of the Department of Family and Protective Services or was in the conservatorship of the Department of Family and Protective Services at the time of the offense; or

(2) is designated as a homeless child or youth or an unaccompanied youth as those terms are defined by 42 U.S.C. Section 11434a or was designated as a homeless child or youth or an

1 unaccompanied youth as those terms are defined by 42 U.S.C. Section  
2 11434a at the time of the offense.

3 SECTION 2. Section 107.002(b-1), Family Code, is amended to  
4 read as follows:

5 (b-1) In addition to the duties required by Subsection (b),  
6 a guardian ad litem appointed for a child in a proceeding under  
7 Chapter 262 or 263 shall:

8 (1) review the medical care provided to the child;  
9 ~~and~~

10 (2) in a developmentally appropriate manner, seek to  
11 elicit the child's opinion on the medical care provided; and

12 (3) for a child at least 16 years of age ascertain  
13 whether the child has received the following documents:

14 (A) a certified copy of the child's birth  
15 certificate;

16 (B) a social security card or a replacement  
17 social security card;

18 (C) a driver's license or personal  
19 identification certificate under Chapter 521, Transportation Code;  
20 and

21 (D) any other personal document the Department of  
22 Family and Protective Services determines appropriate.

23 SECTION 3. Section 107.003(b), Family Code, is amended to  
24 read as follows:

25 (b) In addition to the duties required by Subsection (a), an  
26 attorney ad litem appointed for a child in a proceeding under  
27 Chapter 262 or 263 shall:

- 1 (1) review the medical care provided to the child;  
2 (2) in a developmentally appropriate manner, seek to  
3 elicit the child's opinion on the medical care provided; and  
4 (3) for a child at least 16 years of age:

5 (A) ~~(A)~~ advise the child of the child's right to  
6 request the court to authorize the child to consent to the child's  
7 own medical care under Section 266.010; and

8 (B) ascertain whether the child has received the  
9 following documents:

10 (i) a certified copy of the child's birth  
11 certificate;

12 (ii) a social security card or a  
13 replacement social security card;

14 (iii) a driver's license or personal  
15 identification certificate under Chapter 521, Transportation Code;  
16 and

17 (iv) any other personal document the  
18 Department of Family and Protective Services determines  
19 appropriate.

20 SECTION 4. Sections 263.306(a-1) and (c), Family Code, are  
21 amended to read as follows:

22 (a-1) At each permanency hearing before a final order is  
23 rendered, the court shall:

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

26 (2) review the efforts of the department or other  
27 agency in:

1 (A) locating and requesting service of citation  
2 on all persons entitled to service of citation under Section  
3 102.009; and

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

10 (4) review the extent of the parties' compliance with  
11 temporary orders and the service plan and the extent to which  
12 progress has been made toward alleviating or mitigating the causes  
13 necessitating the placement of the child in foster care;

14 (5) [~~4~~] review the permanency progress report to  
15 determine:

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

19 (B) the continuing necessity and appropriateness  
20 of the placement of the child, including with respect to a child who  
21 has been placed outside of this state, whether the placement  
22 continues to be in the best interest of the child;

23 (C) the appropriateness of the primary and  
24 alternative permanency goals for the child developed in accordance  
25 with department rule and whether the department has made reasonable  
26 efforts to finalize the permanency plan, including the concurrent  
27 permanency goals, in effect for the child;

1 (D) whether the child has been provided the  
2 opportunity, in a developmentally appropriate manner, to express  
3 the child's opinion on any medical care provided;

4 (E) for a child receiving psychotropic  
5 medication, whether the child:

6 (i) has been provided appropriate  
7 nonpharmacological interventions, therapies, or strategies to meet  
8 the child's needs; or

9 (ii) has been seen by the prescribing  
10 physician, physician assistant, or advanced practice nurse at least  
11 once every 90 days;

12 (F) whether an education decision-maker for the  
13 child has been identified, the child's education needs and goals  
14 have been identified and addressed, and there have been major  
15 changes in the child's school performance or there have been  
16 serious disciplinary events;

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

21 (H) for a child whose permanency goal is another  
22 planned permanent living arrangement:

23 (i) the desired permanency outcome for the  
24 child, by asking the child; and

25 (ii) whether, as of the date of the hearing,  
26 another planned permanent living arrangement is the best permanency  
27 plan for the child and, if so, provide compelling reasons why it

1 continues to not be in the best interest of the child to:

- 2 (a) return home;
- 3 (b) be placed for adoption;
- 4 (c) be placed with a legal guardian;
- 5 or
- 6 (d) be placed with a fit and willing
- 7 relative;

8 (6) [~~(5)~~] determine whether to return the child to the  
9 child's parents if the child's parents are willing and able to  
10 provide the child with a safe environment and the return of the  
11 child is in the child's best interest;

12 (7) [~~(6)~~] estimate a likely date by which the child  
13 may be returned to and safely maintained in the child's home, placed  
14 for adoption, or placed in permanent managing conservatorship;

15 (8) determine whether the department has provided the  
16 child with the following:

- 17 (A) the child's birth certificate;
- 18 (B) a social security card or a replacement  
19 social security card;
- 20 (C) a driver's license or personal  
21 identification certificate under Chapter 521, Transportation Code,  
22 for a child who is 16 years of age or older; and
- 23 (D) the information contained in the child's  
24 health passport, including the child's immunization records, as  
25 required under Section 266.006; and

26 (9) [~~(7)~~] announce in open court the dismissal date  
27 and the date of any upcoming hearings.

1           (c) In addition to the requirements of Subsection (a-1)  
2 ~~[(a)]~~, at each permanency hearing before a final order is rendered  
3 the court shall review the department's efforts to ensure that the  
4 child has regular, ongoing opportunities to engage in  
5 age-appropriate normalcy activities, including activities not  
6 listed in the child's service plan.

7           SECTION 5. Section [263.5031](#), Family Code, is amended to  
8 read as follows:

9           Sec. 263.5031. PERMANENCY HEARINGS FOLLOWING FINAL ORDER.  
10 At each permanency hearing after the court renders a final order,  
11 the court shall:

12           (1) identify all persons and parties present at the  
13 hearing;

14           (2) review the efforts of the department or other  
15 agency in notifying persons entitled to notice under Section  
16 [263.0021](#); ~~and~~

17           (3) review the permanency progress report to  
18 determine:

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

22           (B) the continuing necessity and appropriateness  
23 of the placement of the child, including with respect to a child who  
24 has been placed outside of this state, whether the placement  
25 continues to be in the best interest of the child;

26           (C) if the child is placed in institutional care,  
27 whether efforts have been made to ensure that the child is placed in

1 the least restrictive environment consistent with the child's best  
2 interest and special needs;

3 (D) the appropriateness of the primary and  
4 alternative permanency goals for the child, whether the department  
5 has made reasonable efforts to finalize the permanency plan,  
6 including the concurrent permanency goals, in effect for the child,  
7 and whether:

8 (i) the department has exercised due  
9 diligence in attempting to place the child for adoption if parental  
10 rights to the child have been terminated and the child is eligible  
11 for adoption; or

12 (ii) another permanent placement,  
13 including appointing a relative as permanent managing conservator  
14 or returning the child to a parent, is appropriate for the child;

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

17 (i) the desired permanency outcome for the  
18 child, by asking the child; and

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

23 (a) return home;

24 (b) be placed for adoption;

25 (c) be placed with a legal guardian;

26 or

27 (d) be placed with a fit and willing



1 relative;

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

6 (G) whether the child is receiving appropriate  
7 medical care and has been provided the opportunity, in a  
8 developmentally appropriate manner, to express the child's opinion  
9 on any medical care provided;

10 (H) for a child receiving psychotropic  
11 medication, whether the child:

12 (i) has been provided appropriate  
13 nonpharmacological interventions, therapies, or strategies to meet  
14 the child's needs; or

15 (ii) has been seen by the prescribing  
16 physician, physician assistant, or advanced practice nurse at least  
17 once every 90 days;

18 (I) whether an education decision-maker for the  
19 child has been identified, the child's education needs and goals  
20 have been identified and addressed, and there are major changes in  
21 the child's school performance or there have been serious  
22 disciplinary events;

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

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

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

6 (a) in the best interest of the child;  
7 and

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

10 (K) whether the department has identified a  
11 family or other caring adult who has made a permanent commitment to  
12 the child; and

13 (4) if the child is 16 years of age or older, determine  
14 whether the department has provided the child with the following:

15 (A) the child's birth certificate;

16 (B) a social security card or a replacement  
17 social security card;

18 (C) a driver's license or personal  
19 identification certificate under Chapter 521, Transportation Code;

20 (D) the information contained in the child's  
21 health passport, including the child's immunization records, as  
22 required under Section 266.006;

23 (E) proof of enrollment of the child in Medicaid,  
24 if appropriate; and

25 (F) written information advising the child of  
26 postsecondary education benefits and opportunities available to  
27 the child, including the tuition exemption for former foster

1 children under Section 54.366, Education Code.

2 SECTION 6. Subchapter A, Chapter 191, Health and Safety  
3 Code, is amended by adding Section 191.0049 to read as follows:

4 Sec. 191.0049. BIRTH RECORD ISSUED TO FOSTER CHILD OR  
5 HOMELESS OR UNACCOMPANIED YOUTH. On request of a child described by  
6 this section, the state registrar, a local registrar, or a county  
7 clerk shall issue, without fee or parental consent, a certified  
8 copy of the child's birth record to:

9 (1) a homeless child or youth or an unaccompanied  
10 youth as those terms are defined by 42 U.S.C. Section 11434a; and

11 (2) a child in the managing conservatorship of the  
12 Department of Family and Protective Services.

13 SECTION 7. Subchapter E, Chapter 521, Transportation Code,  
14 is amended by adding Section 521.1015 to read as follows:

15 Sec. 521.1015. PERSONAL IDENTIFICATION CERTIFICATE ISSUED  
16 TO FOSTER OR HOMELESS CHILD. (a) In this section:

17 (1) "Foster child" means a person who is 16 years of  
18 age or older and in the managing conservatorship of the Department  
19 of Family and Protective Services.

20 (2) "Homeless child or youth" has the meaning assigned  
21 by 42 U.S.C. Section 11434a.

22 (3) "Unaccompanied youth" has the meaning assigned by  
23 42 U.S.C. Section 11434a.

24 (b) This section applies to the application for a personal  
25 identification certificate only for a foster child, a homeless  
26 child or youth, or an unaccompanied youth.

27 (c) Notwithstanding Section 521.101, Section 521.1426, or

1 any other provision of this chapter, a child or youth described by  
2 Subsection (b) may, in applying for a personal identification  
3 certificate:

4 (1) provide a copy of the child's or youth's birth  
5 certificate as proof of the child's or youth's identity and United  
6 States citizenship, as applicable; and

7 (2) if the child or youth does not have a residence or  
8 domicile, provide a letter from the school district in which the  
9 child or youth is enrolled certifying that the child or youth is a  
10 homeless child or youth or an unaccompanied youth.

11 (d) A child or youth described by Subsection (b) may apply  
12 for and the department may issue a personal identification  
13 certificate without the signature or presence of or permission from  
14 a parent or guardian of the child or youth.

15 (e) A child or youth described by Subsection (b) is exempt  
16 from the payment of any fee for the issuance of a personal  
17 identification certificate under this chapter.

18 SECTION 8. Section 521.1811, Transportation Code, is  
19 amended to read as follows:

20 Sec. 521.1811. WAIVER OF FEES FOR FOSTER CHILD OR HOMELESS  
21 OR UNACCOMPANIED [~~CARE~~] YOUTH. A person is exempt from the payment  
22 of any fee for the issuance of a driver's license, as provided under  
23 this chapter, if that person is:

24 (1) younger than 18 years of age and in the managing  
25 conservatorship of the Department of Family and Protective  
26 Services; [~~or~~]

27 (2) at least 18 years of age, but younger than 21 years

1 of age, and resides in a foster care placement, the cost of which is  
2 paid by the Department of Family and Protective Services; or

3 (3) a homeless child or youth or an unaccompanied  
4 youth as those terms are defined by 42 U.S.C. Section 11434a.

5 SECTION 9. Section 263.306(a), Family Code, is repealed.

6 SECTION 10. The changes in law made by this Act apply to an  
7 application for a driver's license, personal identification  
8 certificate, or birth certificate submitted on or after the  
9 effective date of this Act. An application for a driver's license,  
10 personal identification certificate, or birth certificate  
11 submitted before the effective date of this Act is governed by the  
12 law in effect on the date the application was submitted, and the  
13 former law is continued in effect for that purpose.

14 SECTION 11. The changes in law made by this Act to Sections  
15 263.306 and 263.5031, Family Code, apply to a suit affecting the  
16 parent-child relationship that is pending on or filed on or after  
17 the effective date of this Act.

18 SECTION 12. To the extent of any conflict, this Act prevails  
19 over another Act of the 85th Legislature, Regular Session, 2017,  
20 relating to nonsubstantive additions to and corrections in enacted  
21 codes.

22 SECTION 13. This Act takes effect September 1, 2017.