

By: Klick

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 B, Chapter 264, Family Code, is
3 amended by adding Section 264.1211 to read as follows:

4 Sec. 264.1211. PERSONAL IDENTIFICATION CARD FOR CHILD IN
5 FOSTER CARE. (a) The department, in collaboration with the
6 Department of Public Safety and the Department of State Health
7 Services, shall create a personal identification card to be issued
8 to children in the conservatorship of the department.

9 (b) The department shall develop a procedure to issue a
10 personal identification card to a child in the conservatorship of
11 the department as soon as practicable after the child enters the
12 department's conservatorship.

13 (c) The department, the Department of Public Safety, and the
14 bureau of vital statistics of the Department of State Health
15 Services shall enter into a memorandum of understanding that
16 establishes the responsibilities of each agency with respect to
17 creating the personal identification card and the procedure for
18 verifying the child's identity and for issuing a personal
19 identification card.

20 (d) The Department of Public Safety shall ensure that the
21 personal identification card created under this section complies
22 with any federal law governing requirements for state-issued
23 identification cards.

24 SECTION 7. Subchapter A, Chapter 191, Health and Safety
25 Code, is amended by adding Section 191.0049 to read as follows:

26 Sec. 191.0049. BIRTH RECORD ISSUED TO FOSTER CHILD OR
27 HOMELESS OR UNACCOMPANIED YOUTH. On request of a child described by

1 this section, the state registrar, a local registrar, or a county
2 clerk shall issue, without fee or parental consent, a certified
3 copy of the child's birth record to:

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

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

8 SECTION 8. Subchapter E, Chapter 521, Transportation Code,
9 is amended by adding Section 521.1015 to read as follows:

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

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

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

17 (3) "Unaccompanied youth" has the meaning assigned by
18 42 U.S.C. Section 11434a.

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

22 (c) Notwithstanding Section 521.101, Section 521.1426, or
23 any other provision of this chapter, a child or youth described by
24 Subsection (b) may, in applying for a personal identification
25 certificate:

26 (1) provide a copy of the child's or youth's birth
27 certificate as proof of the child's or youth's identity and United

1 States citizenship, as applicable; and

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

6 (d) A child or youth described by Subsection (b) may apply
7 for and the department may issue a personal identification
8 certificate without the signature or presence of or permission from
9 a parent or guardian of the child or youth.

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

13 SECTION 9. Section 521.142(a), Transportation Code, is
14 amended to read as follows:

15 (a) An application for an original license must state the
16 applicant's full name and place and date of birth. This information
17 must be verified by presentation of proof of identity satisfactory
18 to the department. An applicant who is not a citizen of the United
19 States must present to the department documentation issued by the
20 appropriate United States agency that authorizes the applicant to
21 be in the United States before the applicant may be issued a
22 driver's license. The department must accept the following as
23 satisfactory proof of identity under this subsection [~~an offender~~
24 ~~identification card or similar form of identification issued to an~~
25 ~~inmate by the Texas Department of Criminal Justice]~~ if the
26 applicant also provides supplemental verifiable records or
27 documents that aid in establishing identity:

1 (1) an offender identification card or similar form of
2 identification issued to an inmate by the Texas Department of
3 Criminal Justice; or

4 (2) a personal identification card issued by the
5 Department of Family and Protective Services to a child in the
6 department's conservatorship.

7 SECTION 10. Section 521.1811, Transportation Code, is
8 amended to read as follows:

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

13 (1) younger than 18 years of age and in the managing
14 conservatorship of the Department of Family and Protective
15 Services; [~~or~~]

16 (2) at least 18 years of age, but younger than 21 years
17 of age, and resides in a foster care placement, the cost of which is
18 paid by the Department of Family and Protective Services; or

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

21 (b) The department shall accept a personal identification
22 card issued under Section 264.1211, Family Code, to a person
23 described by Subsection (a) as proof of the person's eligibility
24 for fee exemption provided by this section.

25 SECTION 11. Section 263.306(a), Family Code, is repealed.

26 SECTION 12. The changes in law made by this Act apply to an
27 application for a driver's license, personal identification

1 certificate, or birth certificate submitted on or after the
2 effective date of this Act. An application for a driver's license,
3 personal identification certificate, or birth certificate
4 submitted before the effective date of this Act is governed by the
5 law in effect on the date the application was submitted, and the
6 former law is continued in effect for that purpose.

7 SECTION 13. The changes in law made by this Act to Sections
8 [263.306](#) and [263.5031](#), Family Code, apply to a suit affecting the
9 parent-child relationship that is pending on or filed on or after
10 the effective date of this Act.

11 SECTION 14. To the extent of any conflict, this Act prevails
12 over another Act of the 85th Legislature, Regular Session, 2017,
13 relating to nonsubstantive additions to and corrections in enacted
14 codes.

15 SECTION 15. This Act takes effect September 1, 2017.