

By: Birdwell, et al.

S.B. No. 907

A BILL TO BE ENTITLED

AN ACT

relating to the definition of the least restrictive environment for the placement of children in foster care.

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

SECTION 1. Section 263.001(a), Family Code, is amended by amending Subdivision (3-a) and adding Subdivision (3-b) to read as follows:

(3-a) "Least restrictive setting" means a placement for a child that, in comparison to all other available placements, is the most family-like setting.

(3-b) "Physician assistant" has the meaning assigned by Section 157.051, Occupations Code.

SECTION 2. Section 263.001, Family Code, is amended by adding Subsections (c) and (d) to read as follows:

(c) With respect to a child who is older than six years of age and who is removed from the child's home, if a suitable relative or other designated caregiver is not available as a placement for the child, placing the child in a foster home or a general residential operation operating as a cottage home is considered the least restrictive setting.

(d) With respect to a child who is six years of age or younger and who is removed from the child's home, if a suitable relative or other designated caregiver is not available as a placement for the child, the least restrictive setting for the

1 child is placement in:

2 (1) a foster home; or

3 (2) a general residential operation operating as a
4 cottage home, only if the department determines it is in the best
5 interest of the child.

6 SECTION 3. Section 264.001, Family Code, is amended by
7 adding Subdivision (3-a) to read as follows:

8 (3-a) "Least restrictive setting" means a placement
9 for a child that, in comparison to all other available placements,
10 is the most family-like setting.

11 SECTION 4. Section 264.107, Family Code, is amended by
12 adding Subsection (c) to read as follows:

13 (c) In selecting a placement for a child, the department
14 shall consider whether the placement is in the child's best
15 interest. In determining whether a placement is in a child's best
16 interest, the department shall consider whether the placement:

17 (1) is the least restrictive setting for the child;

18 (2) is the closest in geographic proximity to the
19 child's home;

20 (3) is the most able to meet the identified needs of
21 the child; and

22 (4) satisfies any expressed interests of the child
23 relating to placement, when developmentally appropriate.

24 SECTION 5. (a) This Act takes effect only if a specific
25 appropriation for the implementation of the Act is provided in a
26 general appropriations act of the 85th Legislature.

27 (b) If the Department of Family and Protective Services

1 receives a formal determination from the United States Department
2 of Health and Human Services stating that implementing the changes
3 in law made by this Act will result in a reduction in federal
4 funding under either Title IV-E, Social Security Act (42 U.S.C.
5 Section 670, et seq.) or a related source of federal funds, the
6 Department of Family and Protective Services may not implement this
7 Act.

8 (c) For the purpose of Subsection (b) of this section,
9 "formal determination" means a written opinion or penalty
10 assessment contained in a Child and Family Services Review
11 conducted by the Administration for Children and Families in the
12 United States Department of Health and Human Services regarding the
13 federal funding implications of the implementation of this Act.

14 SECTION 6. This Act takes effect September 1, 2017.