By:  González of El Paso, Frank H.B. No. 1709

     (Senate Sponsor - Menéndez)

(In the Senate - Received from the House April 11, 2019; April 15, 2019, read first time and referred to Committee on Health & Human Services; May 20, 2019, reported favorably by the following vote: Yeas 9, Nays 0; May 20, 2019, sent to printer.)

COMMITTEE VOTE

                 Yea Nay Absent  PNV

Kolkhorst         X

Perry             X

Buckingham        X

Campbell          X

Flores            X

Johnson           X

Miles             X

Powell            X

Seliger           X

A BILL TO BE ENTITLED

AN ACT

relating to the appointment of a surrogate parent for certain children in the conservatorship of the Department of Family and Protective Services.

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

SECTION 1.  Section 25.007(b), Education Code, is amended to read as follows:

(b)  In recognition of the challenges faced by students who are homeless or in substitute care, the agency shall assist the transition of students who are homeless or in substitute care from one school to another by:

(1)  ensuring that school records for a student who is homeless or in substitute care are transferred to the student's new school not later than the 10th working day after the date the student begins enrollment at the school;

(2)  developing systems to ease transition of a student who is homeless or in substitute care during the first two weeks of enrollment at a new school;

(3)  developing procedures for awarding credit, including partial credit if appropriate, for course work, including electives, completed by a student who is homeless or in substitute care while enrolled at another school;

(4)  developing procedures to ensure that a new school relies on decisions made by the previous school regarding placement in courses or educational programs of a student who is homeless or in substitute care and places the student in comparable courses or educational programs at the new school, if those courses or programs are available;

(5)  promoting practices that facilitate access by a student who is homeless or in substitute care to extracurricular programs, summer programs, credit transfer services, electronic courses provided under Chapter 30A, and after-school tutoring programs at nominal or no cost;

(6)  establishing procedures to lessen the adverse impact of the movement of a student who is homeless or in substitute care to a new school;

(7)  entering into a memorandum of understanding with the Department of Family and Protective Services regarding the exchange of information as appropriate to facilitate the transition of students in substitute care from one school to another;

(8)  encouraging school districts and open-enrollment charter schools to provide services for a student who is homeless or in substitute care in transition when applying for admission to postsecondary study and when seeking sources of funding for postsecondary study;

(9)  requiring school districts, campuses, and open-enrollment charter schools to accept a referral for special education services made for a student who is homeless or in substitute care by a school previously attended by the student, and to provide comparable services to the student during the referral process or until the new school develops an individualized education program for the student;

(10)  requiring school districts, campuses, and open-enrollment charter schools to provide notice to the child's educational decision-maker and caseworker regarding events that may significantly impact the education of a child, including:

(A)  requests or referrals for an evaluation under Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794), or special education under Section 29.003;

(B)  admission, review, and dismissal committee meetings;

(C)  manifestation determination reviews required by Section 37.004(b);

(D)  any disciplinary actions under Chapter 37 for which parental notice is required;

(E)  citations issued for Class C misdemeanor offenses on school property or at school-sponsored activities;

(F)  reports of restraint and seclusion required by Section 37.0021; [~~and~~]

(G)  use of corporal punishment as provided by Section 37.0011; and

(H)  appointment of a surrogate parent for the child under Section 29.0151;

(11)  developing procedures for allowing a student who is homeless or in substitute care who was previously enrolled in a course required for graduation the opportunity, to the extent practicable, to complete the course, at no cost to the student, before the beginning of the next school year;

(12)  ensuring that a student who is homeless or in substitute care who is not likely to receive a high school diploma before the fifth school year following the student's enrollment in grade nine, as determined by the district, has the student's course credit accrual and personal graduation plan reviewed;

(13)  ensuring that a student in substitute care who is in grade 11 or 12 be provided information regarding tuition and fee exemptions under Section 54.366 for dual-credit or other courses provided by a public institution of higher education for which a high school student may earn joint high school and college credit;

(14)  designating at least one agency employee to act as a liaison officer regarding educational issues related to students in the conservatorship of the Department of Family and Protective Services; and

(15)  providing other assistance as identified by the agency.

SECTION 2.  Section 29.0151, Education Code, is amended by amending Subsections (c), (f), and (g) and adding Subsection (e-1) to read as follows:

(c)  A surrogate parent appointed by a school district may not:

(1)  be an employee of the agency [~~state~~], the school district, or any other agency involved in the education or care of the child; or

(2)  have any interest that conflicts with the interests of the child.

(e-1)  As soon as practicable after appointing a surrogate parent under this section, a school district shall provide written notice of the appointment to the child's educational decision-maker and caseworker as required under Section 25.007(b)(10)(H).

(f)  If a court appoints a surrogate parent for a child with a disability under Section 263.0025, Family Code, and the school district determines that the surrogate parent [~~is failing to perform or~~] is not properly performing the duties listed under Subsection (d), the district shall consult with the Department of Family and Protective Services regarding whether [~~and appoint~~] another person should be appointed to serve as the surrogate parent for the child.

(g)  On receiving notice from a school district under Subsection (f), if the Department of Family and Protective Services agrees with the district that [~~must promptly notify the court of the failure of~~] the appointed surrogate parent is unable or unwilling to properly perform the duties required under this section:

(1)  the department shall promptly notify the court of the agreement; and

(2)  as soon as practicable after receiving notice under Subdivision (1), the court shall:

(A)  review the appointment; and

(B)  enter any orders necessary to ensure the child has a surrogate parent who performs the duties required under this section.

SECTION 3.  This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2019.

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