

SENATE AMENDMENTS

2nd Printing

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H.B. No. 3390

A BILL TO BE ENTITLED

AN ACT

relating to caregivers for certain children, including the identification of caregivers for children in the conservatorship of the Department of Family and Protective Services and an exception from licensing requirements for certain caretakers.

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

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

(b) A guardian ad litem appointed for the child under this chapter shall:

(1) within a reasonable time after the appointment, interview:

(A) the child in a developmentally appropriate manner, if the child is four years of age or older;

(B) each person who has significant knowledge of the child's history and condition, including educators, child welfare service providers, and any foster parent of the child; and

(C) the parties to the suit;

(2) seek to elicit in a developmentally appropriate manner the child's expressed objectives;

(3) consider the child's expressed objectives without being bound by those objectives;

(4) encourage settlement and the use of alternative forms of dispute resolution; ~~and~~

(5) perform any specific task directed by the court;
and

(6) seek to elicit in a developmentally appropriate manner the name of any adult, particularly an adult residing in the child's community, who could be a relative or designated caregiver for the child and immediately provide the names of those individuals to the Department of Family and Protective Services.

SECTION 2. Section 107.003(a), Family Code, is amended to read as follows:

(a) An attorney ad litem appointed to represent a child or an amicus attorney appointed to assist the court:

(1) shall:

(A) subject to Rules 4.02, 4.03, and 4.04, Texas Disciplinary Rules of Professional Conduct, and within a reasonable time after the appointment, interview:

(i) the child in a developmentally appropriate manner, if the child is four years of age or older;

(ii) each person who has significant knowledge of the child's history and condition, including any foster parent of the child; and

(iii) the parties to the suit;

(B) seek to elicit in a developmentally appropriate manner the child's expressed objectives of representation;

(C) consider the impact on the child in formulating the attorney's presentation of the child's expressed objectives of representation to the court;

1 (D) investigate the facts of the case to the
2 extent the attorney considers appropriate;

3 (E) obtain and review copies of relevant records
4 relating to the child as provided by Section 107.006;

5 (F) participate in the conduct of the litigation
6 to the same extent as an attorney for a party;

7 (G) take any action consistent with the child's
8 interests that the attorney considers necessary to expedite the
9 proceedings;

10 (H) encourage settlement and the use of
11 alternative forms of dispute resolution; ~~and~~

12 (I) review and sign, or decline to sign, a
13 proposed or agreed order affecting the child; and

14 (J) seek to elicit in a developmentally
15 appropriate manner the name of any adult, particularly an adult
16 residing in the child's community, who could be a relative or
17 designated caregiver for the child and immediately provide the
18 names of those individuals to the Department of Family and
19 Protective Services;

20 (2) must be trained in child advocacy or have
21 experience determined by the court to be equivalent to that
22 training; and

23 (3) is entitled to:

24 (A) request clarification from the court if the
25 role of the attorney is ambiguous;

26 (B) request a hearing or trial on the merits;

27 (C) consent or refuse to consent to an interview

of the child by another attorney;

(D) receive a copy of each pleading or other paper filed with the court;

(E) receive notice of each hearing in the suit;

(F) participate in any case staffing concerning the child conducted by the Department of Family and Protective Services; and

(G) attend all legal proceedings in the suit.

SECTION 3. The heading to Section 261.307, Family Code, is amended to read as follows:

Sec. 261.307. INFORMATION RELATING TO INVESTIGATION PROCEDURE AND CHILD PLACEMENT RESOURCES.

SECTION 4. Section 261.307(a), Family Code, is amended to read as follows:

(a) As soon as possible after initiating an investigation of a parent or other person having legal custody of a child, the department shall provide to the person:

(1) a summary that:

(A) is brief and easily understood;

(B) is written in a language that the person understands, or if the person is illiterate, is read to the person in a language that the person understands; and

(C) contains the following information:

(i) the department's procedures for conducting an investigation of alleged child abuse or neglect, including:

(a) a description of the

1 circumstances under which the department would request to remove
2 the child from the home through the judicial system; and

3 (b) an explanation that the law
4 requires the department to refer all reports of alleged child abuse
5 or neglect to a law enforcement agency for a separate determination
6 of whether a criminal violation occurred;

7 (ii) the person's right to file a complaint
8 with the department or to request a review of the findings made by
9 the department in the investigation;

10 (iii) the person's right to review all
11 records of the investigation unless the review would jeopardize an
12 ongoing criminal investigation or the child's safety;

13 (iv) the person's right to seek legal
14 counsel;

15 (v) references to the statutory and
16 regulatory provisions governing child abuse and neglect and how the
17 person may obtain copies of those provisions; and

18 (vi) the process the person may use to
19 acquire access to the child if the child is removed from the home;

20 (2) if the department determines that removal of the
21 child may be warranted, a proposed child placement resources form
22 that:

23 (A) instructs the parent or other person having
24 legal custody of the child to:

25 (i) complete and return the form to the
26 department or agency; ~~and~~

27 (ii) identify in the form at least three

1 individuals who could be relative caregivers or designated
2 caregivers, as those terms are defined by Section 264.751; ~~and~~

3 (iii) ask the child in a developmentally
4 appropriate manner to identify any adult, particularly an adult
5 residing in the child's community, who could be a relative
6 caregiver or designated caregiver for the child; and

7 (iv) list on the form the name of each
8 individual identified by the child as a potential relative
9 caregiver or designated caregiver; and

10 (B) informs the parent or other person of a
11 location that is available to the parent or other person to submit
12 the information in the form 24 hours a day either in person or by
13 facsimile machine or e-mail; and

14 (3) an informational manual required by Section
15 261.3071.

16 SECTION 5. Section 262.0022, Family Code, is amended to
17 read as follows:

18 Sec. 262.0022. REVIEW OF PLACEMENT; FINDINGS. At each
19 hearing under this chapter, the court shall review the placement of
20 each child in the temporary or permanent managing conservatorship
21 of the Department of Family and Protective Services who is not
22 placed with a relative caregiver or designated caregiver as defined
23 by Section 264.751. The court shall include in its findings a
24 statement on whether the department:

25 (1) asked the child in a developmentally appropriate
26 manner to identify any adult, particularly an adult residing in the
27 child's community, who could be a relative caregiver or designated

1 caregiver for the child; and

2 (2) has the option of placing the child with a relative
3 caregiver or ~~[other]~~ designated caregiver.

4 SECTION 6. Sections 262.114(a), (a-2), and (b), Family
5 Code, are amended to read as follows:

6 (a) Before a full adversary hearing under Subchapter C, the
7 Department of Family and Protective Services must perform a
8 background and criminal history check of the relatives or other
9 designated individuals identified as a potential relative or
10 designated caregiver, as defined by Section 264.751, on the
11 proposed child placement resources form provided under Section
12 261.307, including any adult identified by the child. The
13 department shall evaluate each person listed on the form to
14 determine the relative or other designated individual who would be
15 the most appropriate substitute caregiver for the child and must
16 complete a home study of the most appropriate substitute caregiver,
17 if any, before the full adversary hearing. Until the department
18 identifies a relative or other designated individual qualified to
19 be a substitute caregiver, the department must continue to explore
20 substitute caregiver options, including asking the child in a
21 developmentally appropriate manner to identify any adult,
22 particularly an adult residing in the child's community, who could
23 be a relative or designated caregiver for the child. The time
24 frames in this subsection do not apply to a relative or other
25 designated individual located in another state.

26 (a-2) If the child has not been placed with a relative or
27 other designated caregiver by the time of the full adversary

1 hearing under Section 262.201, the department shall file with the
2 court a statement that explains:

3 (1) the reasons why the department has not placed the
4 child with a relative or other designated caregiver listed on the
5 proposed child placement resources form, including any adult
6 identified by the child; and

7 (2) the actions the department is taking, if any, to
8 place the child with a relative or other designated caregiver.

9 (b) The department may place a child with a relative or
10 other designated caregiver identified on the proposed child
11 placement resources form, including any adult identified by the
12 child, if the department determines that the placement is in the
13 best interest of the child. The department must complete the
14 background and criminal history check and conduct a preliminary
15 evaluation of the relative or other designated caregiver's home
16 before the child is placed with the relative or other designated
17 caregiver. The department may place the child with the relative or
18 designated caregiver before conducting the home study required
19 under Subsection (a). Not later than 48 hours after the time that
20 the child is placed with the relative or other designated
21 caregiver, the department shall begin the home study of the
22 relative or other designated caregiver. The department shall
23 complete the home study as soon as possible unless otherwise
24 ordered by a court. The department shall provide a copy of an
25 informational manual required under Section 261.3071 to the
26 relative or other designated caregiver at the time of the child's
27 placement.

SECTION 7. Section 262.201, Family Code, is amended by adding Subsection (1-1) to read as follows:

(1-1) The court shall ask all parties present at the full adversary hearing whether:

(1) the child has had the opportunity, in a developmentally appropriate manner, to identify any adult, particularly an adult residing in the child's community, who could be a relative or designated caregiver for the child; and

(2) each individual identified by the child as a potential relative or designated caregiver is listed on the proposed child placement resources form.

SECTION 8. Section 263.002(b), Family Code, is amended to read as follows:

(b) At each permanency hearing under this chapter, the court shall review the placement of each child in the temporary managing conservatorship of the department who is not placed with a relative caregiver or designated caregiver as defined by Section 264.751. The court shall include in its findings a statement whether the department:

(1) asked the child in a developmentally appropriate manner to identify any adult, particularly an adult residing in the child's community, who could be a relative or designated caregiver for the child; and

(2) placed the child with a relative or ~~other~~ designated caregiver.

SECTION 9. Section 263.202(h), Family Code, is amended to read as follows:

(h) If a proposed child placement resources form as described by Section 261.307 has not been submitted, the court shall require each parent, alleged father, or other person to whom the department is required to provide a form to submit a completed form. The court shall ask all parties present at the status hearing whether:

(1) the child has had the opportunity, in a developmentally appropriate manner, to identify any adult, particularly an adult residing in the child's community, who could be a relative or designated caregiver for the child; and

(2) each individual identified by the child as a potential relative or designated caregiver is listed on the proposed child placement resources form.

SECTION 10. Section 263.306(a-1), Family Code, is amended to read as follows:

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

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

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

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

(B) obtaining the assistance of a parent in providing information necessary to locate an absent parent, alleged father, ~~or~~ relative of the child, or other adult identified by the

1 child as a potential relative or designated caregiver;

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

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

9 (5) review the permanency progress report to
10 determine:

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

14 (B) the continuing necessity and appropriateness
15 of the placement of the child, including with respect to a child who
16 has been placed outside of this state, whether the placement
17 continues to be in the best interest of the child;

18 (C) the appropriateness of the primary and
19 alternative permanency goals for the child developed in accordance
20 with department rule and whether the department has made reasonable
21 efforts to finalize the permanency plan, including the concurrent
22 permanency goals, in effect for the child;

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

26 (E) whether the child has been provided the
27 opportunity, in a developmentally appropriate manner, to identify

1 any adults, particularly an adult residing in the child's
2 community, who could be a relative or designated caregiver for the
3 child;

4 (F) 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 (G) [~~(F)~~] whether an education decision-maker
13 for the child has been identified, the child's education needs and
14 goals 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 (H) [~~(G)~~] for a child 14 years of age or older,
18 whether services that are needed to assist the child in
19 transitioning from substitute care to independent living are
20 available in the child's community; and

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

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

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

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

(a) return home;

(b) be placed for adoption;

(c) be placed with a legal guardian;

or

(d) be placed with a fit and willing

relative;

(iii) whether the department has conducted an independent living skills assessment under Section 264.121(a-3);

(iv) whether the department has addressed the goals identified in the child's permanency plan, including the child's housing plan, and the results of the independent living skills assessment;

(v) if the youth is 16 years of age or older, whether there is evidence that the department has provided the youth with the documents and information listed in Section 264.121(e); and

(vi) if the youth is 18 years of age or older or has had the disabilities of minority removed, whether there is evidence that the department has provided the youth with the documents and information listed in Section 264.121(e-1);

(6) determine whether to return the child to the child's parents if the child's parents are willing and able to provide the child with a safe environment and the return of the child is in the child's best interest;

(7) estimate a likely date by which the child may be

1 returned to and safely maintained in the child's home, placed for
2 adoption, or placed in permanent managing conservatorship; and

3 (8) announce in open court the dismissal date and the
4 date of any upcoming hearings.

5 SECTION 11. Section 263.5031, Family Code, is amended to
6 read as follows:

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

10 (1) identify all persons and parties present at the
11 hearing;

12 (2) review the efforts of the department or other
13 agency in notifying persons entitled to notice under Section
14 263.0021; and

15 (3) review the permanency progress report to
16 determine:

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

20 (B) whether the child has been provided the
21 opportunity, in a developmentally appropriate manner, to identify
22 any adult, particularly an adult residing in the child's community,
23 who could be a relative or designated caregiver for the child;

24 (C) whether the department placed the child with
25 a relative or ~~[other]~~ designated caregiver and the continuing
26 necessity and appropriateness of the placement of the child,
27 including with respect to a child who has been placed outside of

1 this state, whether the placement continues to be in the best
2 interest of the child;

3 (D) [~~(C)~~] if the child is placed in institutional
4 care, whether efforts have been made to ensure that the child is
5 placed in the least restrictive environment consistent with the
6 child's best interest and special needs;

7 (E) [~~(D)~~] the appropriateness of the primary and
8 alternative permanency goals for the child, whether the department
9 has made reasonable efforts to finalize the permanency plan,
10 including the concurrent permanency goals, in effect for the child,
11 and whether:

12 (i) the department has exercised due
13 diligence in attempting to place the child for adoption if parental
14 rights to the child have been terminated and the child is eligible
15 for adoption; or

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

19 (F) [~~(E)~~] for a child whose permanency goal is
20 another planned permanent living arrangement:

21 (i) the desired permanency outcome for the
22 child, by asking the child;

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

27 (a) return home;

1 (b) be placed for adoption;
2 (c) be placed with a legal guardian;
3 or
4 (d) be placed with a fit and willing
5 relative;
6 (iii) whether the department has conducted
7 an independent living skills assessment under Section
8 264.121(a-3);
9 (iv) whether the department has addressed
10 the goals identified in the child's permanency plan, including the
11 child's housing plan, and the results of the independent living
12 skills assessment;
13 (v) if the youth is 16 years of age or
14 older, whether there is evidence that the department has provided
15 the youth with the documents and information listed in Section
16 264.121(e); and
17 (vi) if the youth is 18 years of age or
18 older or has had the disabilities of minority removed, whether
19 there is evidence that the department has provided the youth with
20 the documents and information listed in Section 264.121(e-1);
21 (G) [~~(F)~~] if the child is 14 years of age or
22 older, whether services that are needed to assist the child in
23 transitioning from substitute care to independent living are
24 available in the child's community;
25 (H) [~~(G)~~] whether the child is receiving
26 appropriate medical care and has been provided the opportunity, in
27 a developmentally appropriate manner, to express the child's

1 opinion on any medical care provided;

2 (I) [~~(H)~~] for a child receiving psychotropic
3 medication, whether the child:

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

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

10 (J) [~~(I)~~] whether an education decision-maker
11 for the child has been identified, the child's education needs and
12 goals have been identified and addressed, and there are major
13 changes in the child's school performance or there have been
14 serious disciplinary events;

15 (K) [~~(J)~~] for a child for whom the department has
16 been named managing conservator in a final order that does not
17 include termination of parental rights, whether to order the
18 department to provide services to a parent for not more than six
19 months after the date of the permanency hearing if:

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

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

25 (a) in the best interest of the child;

26 and

27 (b) likely to result in the child's

1 safe return to the child's parent; and

2 (L) [~~(K)~~] whether the department has identified
3 a family or other caring adult who has made a permanent commitment
4 to the child.

5 SECTION 12. Section 264.751(1), Family Code, is amended to
6 read as follows:

7 (1) "Designated caregiver" means an individual who has
8 a longstanding and significant relationship with a child or the
9 family of a child for whom the department has been appointed
10 managing conservator and who:

11 (A) is appointed to provide substitute care for
12 the child, but is not verified by a licensed child-placing agency to
13 operate an agency foster home under Chapter 42, Human Resources
14 Code; or

15 (B) is subsequently appointed permanent managing
16 conservator of the child after providing the care described by
17 Paragraph (A).

18 SECTION 13. Section 42.041(b), Human Resources Code, as
19 amended by Chapters 244 (H.B. 871) and 317 (H.B. 7), Acts of the
20 85th Legislature, Regular Session, 2017, is reenacted and amended
21 to read as follows:

22 (b) This section does not apply to:

- 23 (1) a state-operated facility;
24 (2) an agency foster home;
25 (3) a facility that is operated in connection with a
26 shopping center, business, religious organization, or
27 establishment where children are cared for during short periods

1 while parents or persons responsible for the children are attending
2 religious services, shopping, or engaging in other activities,
3 including retreats or classes for religious instruction, on or near
4 the premises, that does not advertise as a child-care facility or
5 day-care center, and that informs parents that it is not licensed by
6 the state;

7 (4) a school or class for religious instruction that
8 does not last longer than two weeks and is conducted by a religious
9 organization during the summer months;

10 (5) a youth camp licensed by the Department of State
11 Health Services;

12 (6) a facility licensed, operated, certified, or
13 registered by another state agency;

14 (7) an educational facility that is accredited by the
15 Texas Education Agency, the Southern Association of Colleges and
16 Schools, or an accreditation body that is a member of the Texas
17 Private School Accreditation Commission and that operates
18 primarily for educational purposes for prekindergarten and above, a
19 before-school or after-school program operated directly by an
20 accredited educational facility, or a before-school or
21 after-school program operated by another entity under contract with
22 the educational facility, if the Texas Education Agency, the
23 Southern Association of Colleges and Schools, or the other
24 accreditation body, as applicable, has approved the curriculum
25 content of the before-school or after-school program operated under
26 the contract;

27 (8) an educational facility that operates solely for

1 educational purposes for prekindergarten through at least grade
2 two, that does not provide custodial care for more than one hour
3 during the hours before or after the customary school day, and that
4 is a member of an organization that promulgates, publishes, and
5 requires compliance with health, safety, fire, and sanitation
6 standards equal to standards required by state, municipal, and
7 county codes;

8 (9) a kindergarten or preschool educational program
9 that is operated as part of a public school or a private school
10 accredited by the Texas Education Agency, that offers educational
11 programs through grade six, and that does not provide custodial
12 care during the hours before or after the customary school day;

13 (10) a family home, whether registered or listed;

14 (11) an educational facility that is integral to and
15 inseparable from its sponsoring religious organization or an
16 educational facility both of which do not provide custodial care
17 for more than two hours maximum per day, and that offers an
18 educational program in one or more of the following:
19 prekindergarten through at least grade three, elementary grades, or
20 secondary grades;

21 (12) an emergency shelter facility, other than a
22 facility that would otherwise require a license as a child-care
23 facility under this section, that provides shelter or care to a
24 minor and the minor's child or children, if any, under Section
25 32.201, Family Code, if the facility:

26 (A) is currently under a contract with a state or
27 federal agency; or

(B) meets the requirements listed under Section 51.005(b)(3);

(13) a juvenile detention facility certified under Section 51.12, Family Code, a juvenile correctional facility certified under Section 51.125, Family Code, a juvenile facility providing services solely for the Texas Juvenile Justice Department, or any other correctional facility for children operated or regulated by another state agency or by a political subdivision of the state;

(14) an elementary-age (ages 5-13) recreation program operated by a municipality provided the governing body of the municipality annually adopts standards of care by ordinance after a public hearing for such programs, that such standards are provided to the parents of each program participant, and that the ordinances shall include, at a minimum, staffing ratios, minimum staff qualifications, minimum facility, health, and safety standards, and mechanisms for monitoring and enforcing the adopted local standards; and further provided that parents be informed that the program is not licensed by the state and the program may not be advertised as a child-care facility;

(15) an annual youth camp held in a municipality with a population of more than 1.5 million that operates for not more than three months and that has been operated for at least 10 years by a nonprofit organization that provides care for the homeless;

(16) a food distribution program that:

(A) serves an evening meal to children two years of age or older; and

1 (B) is operated by a nonprofit food bank in a
2 nonprofit, religious, or educational facility for not more than two
3 hours a day on regular business days;

4 (17) a child-care facility that operates for less than
5 three consecutive weeks and less than 40 days in a period of 12
6 months;

7 (18) a program:

8 (A) in which a child receives direct instruction
9 in a single skill, talent, ability, expertise, or proficiency;

10 (B) that does not provide services or offerings
11 that are not directly related to the single talent, ability,
12 expertise, or proficiency;

13 (C) that does not advertise or otherwise
14 represent that the program is a child-care facility, day-care
15 center, or licensed before-school or after-school program or that
16 the program offers child-care services;

17 (D) that informs the parent or guardian:

18 (i) that the program is not licensed by the
19 state; and

20 (ii) about the physical risks a child may
21 face while participating in the program; and

22 (E) that conducts background checks for all
23 program employees and volunteers who work with children in the
24 program using information that is obtained from the Department of
25 Public Safety;

26 (19) an elementary-age (ages 5-13) recreation program
27 that:

1 (A) adopts standards of care, including
2 standards relating to staff ratios, staff training, health, and
3 safety;

4 (B) provides a mechanism for monitoring and
5 enforcing the standards and receiving complaints from parents of
6 enrolled children;

7 (C) does not advertise as or otherwise represent
8 the program as a child-care facility, day-care center, or licensed
9 before-school or after-school program or that the program offers
10 child-care services;

11 (D) informs parents that the program is not
12 licensed by the state;

13 (E) is organized as a nonprofit organization or
14 is located on the premises of a participant's residence;

15 (F) does not accept any remuneration other than a
16 nominal annual membership fee;

17 (G) does not solicit donations as compensation or
18 payment for any good or service provided as part of the program; and

19 (H) conducts background checks for all program
20 employees and volunteers who work with children in the program
21 using information that is obtained from the Department of Public
22 Safety;

23 (20) a living arrangement in a caretaker's home
24 involving one or more children or a sibling group, excluding
25 children who are related to the caretaker, in which the caretaker:

26 (A) had a prior relationship with the child or
27 sibling group or other family members of the child or sibling group;

1 (B) does not care for more than one unrelated
2 child or sibling group;

3 (C) does not receive compensation or solicit
4 donations for the care of the child or sibling group; and

5 (D) has a written agreement with the parent to
6 care for the child or sibling group;

7 (21) a living arrangement in a caretaker's home
8 involving one or more children or a sibling group, excluding
9 children who are related to the caretaker, in which:

10 (A) the department is the managing conservator of
11 the child or sibling group;

12 (B) the department placed the child or sibling
13 group in the caretaker's home; and

14 (C) the caretaker had a long-standing and
15 significant relationship with the child or sibling group, or the
16 family of the child or sibling group, before the child or sibling
17 group was placed with the caretaker;

18 (22) a living arrangement in a caretaker's home
19 involving one or more children or a sibling group, excluding
20 children who are related to the caretaker, in which the child is in
21 the United States on a time-limited visa under the sponsorship of
22 the caretaker or of a sponsoring organization;

23 (23) a facility operated by a nonprofit organization
24 that:

25 (A) does not otherwise operate as a child-care
26 facility that is required to be licensed under this section;

27 (B) provides emergency shelter and care for not

1 more than 15 days to children 13 years of age or older but younger
2 than 18 years of age who are victims of human trafficking alleged
3 under Section 20A.02, Penal Code;

4 (C) is located in a municipality with a
5 population of at least 600,000 that is in a county on an
6 international border; and

7 (D) meets one of the following criteria:

8 (i) is licensed by, or operates under an
9 agreement with, a state or federal agency to provide shelter and
10 care to children; or

11 (ii) meets the eligibility requirements for
12 a contract under Section 51.005(b)(3); ~~[ex]~~

13 (24) a facility that provides respite care exclusively
14 for a local mental health authority under a contract with the local
15 mental health authority; or

16 (25) ~~[(24)]~~ a living arrangement in a caretaker's home
17 involving one or more children or a sibling group in which the
18 caretaker:

19 (A) has a written authorization agreement under
20 Chapter 34, Family Code, with the parent of each child or sibling
21 group to care for each child or sibling group;

22 (B) does not care for more than six children,
23 excluding children who are related to the caretaker; and

24 (C) does not receive compensation for caring for
25 any child or sibling group.

26 SECTION 14. As soon as practicable after the effective date
27 of this Act, the commissioner of the Department of Family and

1 Protective Services shall adopt rules necessary to implement the
2 changes in law made by this Act.

3 SECTION 15. This Act takes effect immediately if it
4 receives a vote of two-thirds of all the members elected to each
5 house, as provided by Section 39, Article III, Texas Constitution.
6 If this Act does not receive the vote necessary for immediate
7 effect, this Act takes effect September 1, 2019.

ADOPTED

MAY 22 2019

Leta Spaw
Secretary of the Senate

By: Sanford/Paxton

____.B. No. ____

Substitute the following for ____B. No. ____:

By: *Charles Perry*

C.S. H.B. No. 3390

A BILL TO BE ENTITLED

AN ACT

relating to caregivers for certain children, including the identification of caregivers for children in the conservatorship of the Department of Family and Protective Services and an exception from licensing requirements for certain caretakers.

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

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

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

(1) review the medical care provided to the child;

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

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

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

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

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

(D) any other personal document the Department of

1 Family and Protective Services determines appropriate; and

2 (4) seek to elicit in a developmentally appropriate
3 manner the name of any adult, particularly an adult residing in the
4 child's community, who could be a relative or designated caregiver
5 for the child and immediately provide the names of those
6 individuals to the Department of Family and Protective Services.

7 SECTION 2. Section 107.003(b), Family Code, is amended to
8 read as follows:

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

12 (1) review the medical care provided to the child;

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

15 (3) for a child at least 16 years of age:

16 (A) advise the child of the child's right to
17 request the court to authorize the child to consent to the child's
18 own medical care under Section 266.010; and

19 (B) ascertain whether the child has received the
20 following documents:

21 (i) a certified copy of the child's birth
22 certificate;

23 (ii) a social security card or a
24 replacement social security card;

25 (iii) a driver's license or personal
26 identification certificate under Chapter 521, Transportation Code;
27 and

(iv) any other personal document the Department of Family and Protective Services determines appropriate; and

(4) seek to elicit in a developmentally appropriate manner the name of any adult, particularly an adult residing in the child's community, who could be a relative or designated caregiver for the child and immediately provide the names of those individuals to the Department of Family and Protective Services.

SECTION 3. The heading to Section 261.307, Family Code, is amended to read as follows:

Sec. 261.307. INFORMATION RELATING TO INVESTIGATION PROCEDURE AND CHILD PLACEMENT RESOURCES.

SECTION 4. Section 261.307(a), Family Code, is amended to read as follows:

(a) As soon as possible after initiating an investigation of a parent or other person having legal custody of a child, the department shall provide to the person:

(1) a summary that:

(A) is brief and easily understood;

(B) is written in a language that the person understands, or if the person is illiterate, is read to the person in a language that the person understands; and

(C) contains the following information:

(i) the department's procedures for conducting an investigation of alleged child abuse or neglect, including:

(a) a description of the

1 circumstances under which the department would request to remove
2 the child from the home through the judicial system; and

3 (b) an explanation that the law
4 requires the department to refer all reports of alleged child abuse
5 or neglect to a law enforcement agency for a separate determination
6 of whether a criminal violation occurred;

7 (ii) the person's right to file a complaint
8 with the department or to request a review of the findings made by
9 the department in the investigation;

10 (iii) the person's right to review all
11 records of the investigation unless the review would jeopardize an
12 ongoing criminal investigation or the child's safety;

13 (iv) the person's right to seek legal
14 counsel;

15 (v) references to the statutory and
16 regulatory provisions governing child abuse and neglect and how the
17 person may obtain copies of those provisions; and

18 (vi) the process the person may use to
19 acquire access to the child if the child is removed from the home;

20 (2) if the department determines that removal of the
21 child may be warranted, a proposed child placement resources form
22 that:

23 (A) instructs the parent or other person having
24 legal custody of the child to:

25 (i) complete and return the form to the
26 department or agency; ~~and~~

27 (ii) identify in the form at least three

1 individuals who could be relative caregivers or designated
2 caregivers, as those terms are defined by Section 264.751; ~~and~~

3 (iii) ask the child in a developmentally
4 appropriate manner to identify any adult, particularly an adult
5 residing in the child's community, who could be a relative
6 caregiver or designated caregiver for the child; and

7 (iv) list on the form the name of each
8 individual identified by the child as a potential relative
9 caregiver or designated caregiver; and

10 (B) informs the parent or other person of a
11 location that is available to the parent or other person to submit
12 the information in the form 24 hours a day either in person or by
13 facsimile machine or e-mail; and

14 (3) an informational manual required by Section
15 261.3071.

16 SECTION 5. Section 262.0022, Family Code, is amended to
17 read as follows:

18 Sec. 262.0022. REVIEW OF PLACEMENT; FINDINGS. At each
19 hearing under this chapter, the court shall review the placement of
20 each child in the temporary or permanent managing conservatorship
21 of the Department of Family and Protective Services who is not
22 placed with a relative caregiver or designated caregiver as defined
23 by Section 264.751. The court shall include in its findings a
24 statement on whether the department:

25 (1) asked the child in a developmentally appropriate
26 manner to identify any adult, particularly an adult residing in the
27 child's community, who could be a relative caregiver or designated

1 caregiver for the child; and

2 (2) has the option of placing the child with a relative
3 caregiver or ~~[other]~~ designated caregiver.

4 SECTION 6. Sections 262.114(a), (a-2), and (b), Family
5 Code, are amended to read as follows:

6 (a) Before a full adversary hearing under Subchapter C, the
7 Department of Family and Protective Services must perform a
8 background and criminal history check of the relatives or other
9 designated individuals identified as a potential relative or
10 designated caregiver, as defined by Section 264.751, on the
11 proposed child placement resources form provided under Section
12 261.307, including any adult identified by the child. The
13 department shall evaluate each person listed on the form to
14 determine the relative or other designated individual who would be
15 the most appropriate substitute caregiver for the child and must
16 complete a home study of the most appropriate substitute caregiver,
17 if any, before the full adversary hearing. Until the department
18 identifies a relative or other designated individual qualified to
19 be a substitute caregiver, the department must continue to explore
20 substitute caregiver options, including asking the child in a
21 developmentally appropriate manner to identify any adult,
22 particularly an adult residing in the child's community, who could
23 be a relative or designated caregiver for the child. The time
24 frames in this subsection do not apply to a relative or other
25 designated individual located in another state.

26 (a-2) If the child has not been placed with a relative or
27 other designated caregiver by the time of the full adversary

1 hearing under Section 262.201, the department shall file with the
2 court a statement that explains:

3 (1) the reasons why the department has not placed the
4 child with a relative or other designated caregiver listed on the
5 proposed child placement resources form, including any adult
6 identified by the child; and

7 (2) the actions the department is taking, if any, to
8 place the child with a relative or other designated caregiver.

9 (b) The department may place a child with a relative or
10 other designated caregiver identified on the proposed child
11 placement resources form, including any adult identified by the
12 child, if the department determines that the placement is in the
13 best interest of the child. The department must complete the
14 background and criminal history check and conduct a preliminary
15 evaluation of the relative or other designated caregiver's home
16 before the child is placed with the relative or other designated
17 caregiver. The department may place the child with the relative or
18 designated caregiver before conducting the home study required
19 under Subsection (a). Not later than 48 hours after the time that
20 the child is placed with the relative or other designated
21 caregiver, the department shall begin the home study of the
22 relative or other designated caregiver. The department shall
23 complete the home study as soon as possible unless otherwise
24 ordered by a court. The department shall provide a copy of an
25 informational manual required under Section 261.3071 to the
26 relative or other designated caregiver at the time of the child's
27 placement.

1 SECTION 7. Section 262.201, Family Code, is amended by
2 adding Subsection (1-1) to read as follows:

3 (1-1) The court shall ask all parties present at the full
4 adversary hearing whether:

5 (1) the child has had the opportunity, in a
6 developmentally appropriate manner, to identify any adult,
7 particularly an adult residing in the child's community, who could
8 be a relative or designated caregiver for the child; and

9 (2) each individual identified by the child as a
10 potential relative or designated caregiver is listed on the
11 proposed child placement resources form.

12 SECTION 8. Section 263.002(b), Family Code, is amended to
13 read as follows:

14 (b) At each permanency hearing under this chapter, the court
15 shall review the placement of each child in the temporary managing
16 conservatorship of the department who is not placed with a relative
17 caregiver or designated caregiver as defined by Section
18 264.751. The court shall include in its findings a statement
19 whether the department:

20 (1) asked the child in a developmentally appropriate
21 manner to identify any adult, particularly an adult residing in the
22 child's community, who could be a relative or designated caregiver
23 for the child; and

24 (2) placed the child with a relative or ~~other~~
25 designated caregiver.

26 SECTION 9. Section 263.202(h), Family Code, is amended to
27 read as follows:

1 (h) If a proposed child placement resources form as
2 described by Section 261.307 has not been submitted, the court
3 shall require each parent, alleged father, or other person to whom
4 the department is required to provide a form to submit a completed
5 form. The court shall ask all parties present at the status hearing
6 whether:

7 (1) the child has had the opportunity, in a
8 developmentally appropriate manner, to identify any adult,
9 particularly an adult residing in the child's community, who could
10 be a relative or designated caregiver for the child; and

11 (2) each individual identified by the child as a
12 potential relative or designated caregiver is listed on the
13 proposed child placement resources form.

14 SECTION 10. Section 263.306(a-1), Family Code, is amended
15 to read as follows:

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

18 (1) identify all persons and parties present at the
19 hearing;

20 (2) review the efforts of the department or other
21 agency in:

22 (A) locating and requesting service of citation
23 on all persons entitled to service of citation under Section
24 102.009; and

25 (B) obtaining the assistance of a parent in
26 providing information necessary to locate an absent parent, alleged
27 father, ~~[or]~~ relative of the child, or other adult identified by the

1 child as a potential relative or designated caregiver;

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

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

9 (5) review the permanency progress report to
10 determine:

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

14 (B) the continuing necessity and appropriateness
15 of the placement of the child, including with respect to a child who
16 has been placed outside of this state, whether the placement
17 continues to be in the best interest of the child;

18 (C) the appropriateness of the primary and
19 alternative permanency goals for the child developed in accordance
20 with department rule and whether the department has made reasonable
21 efforts to finalize the permanency plan, including the concurrent
22 permanency goals, in effect for the child;

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

26 (E) whether the child has been provided the
27 opportunity, in a developmentally appropriate manner, to identify

1 any adults, particularly an adult residing in the child's
2 community, who could be a relative or designated caregiver for the
3 child;

4 (F) 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 (G) [~~F~~] whether an education decision-maker
13 for the child has been identified, the child's education needs and
14 goals 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 (H) [~~G~~] for a child 14 years of age or older,
18 whether services that are needed to assist the child in
19 transitioning from substitute care to independent living are
20 available in the child's community; and

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

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

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 (iii) whether the department has conducted

9 an independent living skills assessment under Section

10 264.121(a-3);

11 (iv) whether the department has addressed

12 the goals identified in the child's permanency plan, including the

13 child's housing plan, and the results of the independent living

14 skills assessment;

15 (v) if the youth is 16 years of age or

16 older, whether there is evidence that the department has provided

17 the youth with the documents and information listed in Section

18 264.121(e); and

19 (vi) if the youth is 18 years of age or

20 older or has had the disabilities of minority removed, whether

21 there is evidence that the department has provided the youth with

22 the documents and information listed in Section 264.121(e-1);

23 (6) determine whether to return the child to the

24 child's parents if the child's parents are willing and able to

25 provide the child with a safe environment and the return of the

26 child is in the child's best interest;

27 (7) estimate a likely date by which the child may be

1 returned to and safely maintained in the child's home, placed for
2 adoption, or placed in permanent managing conservatorship; and

3 (8) announce in open court the dismissal date and the
4 date of any upcoming hearings.

5 SECTION 11. Section 263.5031, Family Code, is amended to
6 read as follows:

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

10 (1) identify all persons and parties present at the
11 hearing;

12 (2) review the efforts of the department or other
13 agency in notifying persons entitled to notice under Section
14 263.0021; and

15 (3) review the permanency progress report to
16 determine:

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

20 (B) whether the child has been provided the
21 opportunity, in a developmentally appropriate manner, to identify
22 any adult, particularly an adult residing in the child's community,
23 who could be a relative or designated caregiver for the child;

24 (C) whether the department placed the child with
25 a relative or ~~other~~ designated caregiver and the continuing
26 necessity and appropriateness of the placement of the child,
27 including with respect to a child who has been placed outside of

1 this state, whether the placement continues to be in the best
2 interest of the child;

3 (D) [~~(C)~~] if the child is placed in institutional
4 care, whether efforts have been made to ensure that the child is
5 placed in the least restrictive environment consistent with the
6 child's best interest and special needs;

7 (E) [~~(D)~~] the appropriateness of the primary and
8 alternative permanency goals for the child, whether the department
9 has made reasonable efforts to finalize the permanency plan,
10 including the concurrent permanency goals, in effect for the child,
11 and whether:

12 (i) the department has exercised due
13 diligence in attempting to place the child for adoption if parental
14 rights to the child have been terminated and the child is eligible
15 for adoption; or

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

19 (F) [~~(E)~~] for a child whose permanency goal is
20 another planned permanent living arrangement:

21 (i) the desired permanency outcome for the
22 child, by asking the child;

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

27 (a) return home;

1 (b) be placed for adoption;
2 (c) be placed with a legal guardian;
3 or
4 (d) be placed with a fit and willing
5 relative;
6 (iii) whether the department has conducted
7 an independent living skills assessment under Section
8 264.121(a-3);
9 (iv) whether the department has addressed
10 the goals identified in the child's permanency plan, including the
11 child's housing plan, and the results of the independent living
12 skills assessment;
13 (v) if the youth is 16 years of age or
14 older, whether there is evidence that the department has provided
15 the youth with the documents and information listed in Section
16 264.121(e); and
17 (vi) if the youth is 18 years of age or
18 older or has had the disabilities of minority removed, whether
19 there is evidence that the department has provided the youth with
20 the documents and information listed in Section 264.121(e-1);
21 (G) [~~(F)~~] if the child is 14 years of age or
22 older, whether services that are needed to assist the child in
23 transitioning from substitute care to independent living are
24 available in the child's community;
25 (H) [~~(G)~~] whether the child is receiving
26 appropriate medical care and has been provided the opportunity, in
27 a developmentally appropriate manner, to express the child's

1 opinion on any medical care provided;

2 (I) [~~(H)~~] for a child receiving psychotropic
3 medication, whether the child:

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

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

10 (J) [~~(I)~~] whether an education decision-maker
11 for the child has been identified, the child's education needs and
12 goals have been identified and addressed, and there are major
13 changes in the child's school performance or there have been
14 serious disciplinary events;

15 (K) [~~(J)~~] for a child for whom the department has
16 been named managing conservator in a final order that does not
17 include termination of parental rights, whether to order the
18 department to provide services to a parent for not more than six
19 months after the date of the permanency hearing if:

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

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

25 (a) in the best interest of the child;

26 and

27 (b) likely to result in the child's

1 safe return to the child's parent; and

2 (L) [~~(K)~~] whether the department has identified
3 a family or other caring adult who has made a permanent commitment
4 to the child.

5 SECTION 12. Section 264.751(1), Family Code, is amended to
6 read as follows:

7 (1) "Designated caregiver" means an individual who has
8 a longstanding and significant relationship with a child or the
9 family of a child for whom the department has been appointed
10 managing conservator and who:

11 (A) is appointed to provide substitute care for
12 the child, but is not verified by a licensed child-placing agency to
13 operate an agency foster home under Chapter 42, Human Resources
14 Code; or

15 (B) is subsequently appointed permanent managing
16 conservator of the child after providing the care described by
17 Paragraph (A).

18 SECTION 13. Section 42.041(b), Human Resources Code, as
19 amended by Chapters 244 (H.B. 871) and 317 (H.B. 7), Acts of the
20 85th Legislature, Regular Session, 2017, is reenacted and amended
21 to read as follows:

22 (b) This section does not apply to:

- 23 (1) a state-operated facility;
24 (2) an agency foster home;
25 (3) a facility that is operated in connection with a
26 shopping center, business, religious organization, or
27 establishment where children are cared for during short periods

1 while parents or persons responsible for the children are attending
2 religious services, shopping, or engaging in other activities,
3 including retreats or classes for religious instruction, on or near
4 the premises, that does not advertise as a child-care facility or
5 day-care center, and that informs parents that it is not licensed by
6 the state;

7 (4) a school or class for religious instruction that
8 does not last longer than two weeks and is conducted by a religious
9 organization during the summer months;

10 (5) a youth camp licensed by the Department of State
11 Health Services;

12 (6) a facility licensed, operated, certified, or
13 registered by another state agency;

14 (7) an educational facility that is accredited by the
15 Texas Education Agency, the Southern Association of Colleges and
16 Schools, or an accreditation body that is a member of the Texas
17 Private School Accreditation Commission and that operates
18 primarily for educational purposes for prekindergarten and above, a
19 before-school or after-school program operated directly by an
20 accredited educational facility, or a before-school or
21 after-school program operated by another entity under contract with
22 the educational facility, if the Texas Education Agency, the
23 Southern Association of Colleges and Schools, or the other
24 accreditation body, as applicable, has approved the curriculum
25 content of the before-school or after-school program operated under
26 the contract;

27 (8) an educational facility that operates solely for

1 educational purposes for prekindergarten through at least grade
2 two, that does not provide custodial care for more than one hour
3 during the hours before or after the customary school day, and that
4 is a member of an organization that promulgates, publishes, and
5 requires compliance with health, safety, fire, and sanitation
6 standards equal to standards required by state, municipal, and
7 county codes;

8 (9) a kindergarten or preschool educational program
9 that is operated as part of a public school or a private school
10 accredited by the Texas Education Agency, that offers educational
11 programs through grade six, and that does not provide custodial
12 care during the hours before or after the customary school day;

13 (10) a family home, whether registered or listed;

14 (11) an educational facility that is integral to and
15 inseparable from its sponsoring religious organization or an
16 educational facility both of which do not provide custodial care
17 for more than two hours maximum per day, and that offers an
18 educational program in one or more of the following:
19 prekindergarten through at least grade three, elementary grades, or
20 secondary grades;

21 (12) an emergency shelter facility, other than a
22 facility that would otherwise require a license as a child-care
23 facility under this section, that provides shelter or care to a
24 minor and the minor's child or children, if any, under Section
25 32.201, Family Code, if the facility:

26 (A) is currently under a contract with a state or
27 federal agency; or

1 (B) meets the requirements listed under Section
2 51.005(b)(3);

3 (13) a juvenile detention facility certified under
4 Section 51.12, Family Code, a juvenile correctional facility
5 certified under Section 51.125, Family Code, a juvenile facility
6 providing services solely for the Texas Juvenile Justice
7 Department, or any other correctional facility for children
8 operated or regulated by another state agency or by a political
9 subdivision of the state;

10 (14) an elementary-age (ages 5-13) recreation program
11 operated by a municipality provided the governing body of the
12 municipality annually adopts standards of care by ordinance after a
13 public hearing for such programs, that such standards are provided
14 to the parents of each program participant, and that the ordinances
15 shall include, at a minimum, staffing ratios, minimum staff
16 qualifications, minimum facility, health, and safety standards,
17 and mechanisms for monitoring and enforcing the adopted local
18 standards; and further provided that parents be informed that the
19 program is not licensed by the state and the program may not be
20 advertised as a child-care facility;

21 (15) an annual youth camp held in a municipality with a
22 population of more than 1.5 million that operates for not more than
23 three months and that has been operated for at least 10 years by a
24 nonprofit organization that provides care for the homeless;

25 (16) a food distribution program that:

26 (A) serves an evening meal to children two years
27 of age or older; and

1 (B) is operated by a nonprofit food bank in a
2 nonprofit, religious, or educational facility for not more than two
3 hours a day on regular business days;

4 (17) a child-care facility that operates for less than
5 three consecutive weeks and less than 40 days in a period of 12
6 months;

7 (18) a program:

8 (A) in which a child receives direct instruction
9 in a single skill, talent, ability, expertise, or proficiency;

10 (B) that does not provide services or offerings
11 that are not directly related to the single talent, ability,
12 expertise, or proficiency;

13 (C) that does not advertise or otherwise
14 represent that the program is a child-care facility, day-care
15 center, or licensed before-school or after-school program or that
16 the program offers child-care services;

17 (D) that informs the parent or guardian:

18 (i) that the program is not licensed by the
19 state; and

20 (ii) about the physical risks a child may
21 face while participating in the program; and

22 (E) that conducts background checks for all
23 program employees and volunteers who work with children in the
24 program using information that is obtained from the Department of
25 Public Safety;

26 (19) an elementary-age (ages 5-13) recreation program
27 that:

1 (A) adopts standards of care, including
2 standards relating to staff ratios, staff training, health, and
3 safety;

4 (B) provides a mechanism for monitoring and
5 enforcing the standards and receiving complaints from parents of
6 enrolled children;

7 (C) does not advertise as or otherwise represent
8 the program as a child-care facility, day-care center, or licensed
9 before-school or after-school program or that the program offers
10 child-care services;

11 (D) informs parents that the program is not
12 licensed by the state;

13 (E) is organized as a nonprofit organization or
14 is located on the premises of a participant's residence;

15 (F) does not accept any remuneration other than a
16 nominal annual membership fee;

17 (G) does not solicit donations as compensation or
18 payment for any good or service provided as part of the program; and

19 (H) conducts background checks for all program
20 employees and volunteers who work with children in the program
21 using information that is obtained from the Department of Public
22 Safety;

23 (20) a living arrangement in a caretaker's home
24 involving one or more children or a sibling group, excluding
25 children who are related to the caretaker, in which the caretaker:

26 (A) had a prior relationship with the child or
27 sibling group or other family members of the child or sibling group;

1 (B) does not care for more than one unrelated
2 child or sibling group;

3 (C) does not receive compensation or solicit
4 donations for the care of the child or sibling group; and

5 (D) has a written agreement with the parent to
6 care for the child or sibling group;

7 (21) a living arrangement in a caretaker's home
8 involving one or more children or a sibling group, excluding
9 children who are related to the caretaker, in which:

10 (A) the department is the managing conservator of
11 the child or sibling group;

12 (B) the department placed the child or sibling
13 group in the caretaker's home; and

14 (C) the caretaker had a long-standing and
15 significant relationship with the child or sibling group, or the
16 family of the child or sibling group, before the child or sibling
17 group was placed with the caretaker;

18 (22) a living arrangement in a caretaker's home
19 involving one or more children or a sibling group, excluding
20 children who are related to the caretaker, in which the child is in
21 the United States on a time-limited visa under the sponsorship of
22 the caretaker or of a sponsoring organization;

23 (23) a facility operated by a nonprofit organization
24 that:

25 (A) does not otherwise operate as a child-care
26 facility that is required to be licensed under this section;

27 (B) provides emergency shelter and care for not

1 more than 15 days to children 13 years of age or older but younger
2 than 18 years of age who are victims of human trafficking alleged
3 under Section 20A.02, Penal Code;

4 (C) is located in a municipality with a
5 population of at least 600,000 that is in a county on an
6 international border; and

7 (D) meets one of the following criteria:

8 (i) is licensed by, or operates under an
9 agreement with, a state or federal agency to provide shelter and
10 care to children; or

11 (ii) meets the eligibility requirements for
12 a contract under Section 51.005(b)(3); ~~[or]~~

13 (24) a facility that provides respite care exclusively
14 for a local mental health authority under a contract with the local
15 mental health authority; or

16 (25) ~~[(24)]~~ a living arrangement in a caretaker's home
17 involving one or more children or a sibling group in which the
18 caretaker:

19 (A) has a written authorization agreement under
20 Chapter 34, Family Code, with the parent of each child or sibling
21 group to care for each child or sibling group;

22 (B) does not care for more than six children,
23 excluding children who are related to the caretaker; and

24 (C) does not receive compensation for caring for
25 any child or sibling group.

26 SECTION 14. As soon as practicable after the effective date
27 of this Act, the commissioner of the Department of Family and

1 Protective Services shall adopt rules necessary to implement the
2 changes in law made by this Act.

3 SECTION 15. To the extent of any conflict, this Act prevails
4 over another Act of the 86th Legislature, Regular Session, 2019,
5 relating to nonsubstantive additions to and corrections in enacted
6 codes.

7 SECTION 16. This Act takes effect immediately if it
8 receives a vote of two-thirds of all the members elected to each
9 house, as provided by Section 39, Article III, Texas Constitution.
10 If this Act does not receive the vote necessary for immediate
11 effect, this Act takes effect September 1, 2019.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

May 23, 2019

TO: Honorable Dennis Bonnen, Speaker of the House, House of Representatives

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: HB3390 by Sanford (Relating to caregivers for certain children, including the identification of caregivers for children in the conservatorship of the Department of Family and Protective Services and an exception from licensing requirements for certain caretakers.), **As Passed 2nd House**

No significant fiscal implication to the State is anticipated.

The bill would amend Family Code to require a guardian ad litem and an attorney ad litem to identify adults who could be relative or designated caregivers for a child in the conservatorship of the Department of Family and Protective Services (DFPS) to the department.

The bill would require DFPS during an investigation, temporary or permanent managing placement and court hearings, to ask a child to identify any adult, who could be a relative or designative caregiver for the child.

The executive commissioner of the Health and Human Services Commission (HHSC) would be able to adopt rules necessary to implement the bill.

The bill would take effect immediately if it receives two thirds vote in each house; otherwise effective on September 1, 2019.

DFPS, HHSC and the Office of Court Administration indicate they could absorb the costs associated with the bill within current resources.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 530 Family and Protective Services, Department of, 529 Health and Human Services Commission, 644 Juvenile Justice Department

LBB Staff: WP, SD, AN, AKi, EP, NA

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

May 18, 2019

TO: Honorable Lois W. Kolkhorst, Chair, Senate Committee on Health & Human Services

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: HB3390 by Sanford (Relating to caregivers for certain children, including the identification of caregivers for children in the conservatorship of the Department of Family and Protective Services and an exception from licensing requirements for certain caretakers.), **Committee Report 2nd House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would amend Family Code to require a guardian ad litem and an attorney ad litem to identify adults who could be relative or designated caregivers for a child in the conservatorship of the Department of Family and Protective Services (DFPS) to the department.

The bill would require DFPS during an investigation, temporary or permanent managing placement and court hearings, to ask a child to identify any adult, who could be a relative or designative caregiver for the child.

The executive commissioner of the Health and Human Services Commission (HHSC) would be able to adopt rules necessary to implement the bill.

The bill would take effect immediately if it receives two thirds vote in each house; otherwise effective on September 1, 2019.

DFPS, HHSC and the Office of Court Administration indicate they could absorb the costs associated with the bill within current resources.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 530 Family and Protective Services, Department of, 529 Health and Human Services Commission, 644 Juvenile Justice Department

LBB Staff: WP, AN, AKi, EP, NA

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

May 13, 2019

TO: Honorable Lois W. Kolthorst, Chair, Senate Committee on Health & Human Services

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: HB3390 by Sanford (Relating to caregivers for certain children, including the identification of caregivers for children in the conservatorship of the Department of Family and Protective Services and an exception from licensing requirements for certain caretakers.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The bill would amend Family Code to require a guardian ad litem and an attorney ad litem to identify adults who could be relative or designated caregivers for a child in the conservatorship of the Department of Family and Protective Services (DFPS) to the department.

The bill would require DFPS during an investigation, temporary or permanent managing placement and court hearings, to ask a child to identify any adult, who could be a relative or designative caregiver for the child.

The executive commissioner of the Health and Human Services Commission (HHSC) would be able to adopt rules necessary to implement the bill.

The bill would take effect immediately if it receives two thirds vote in each house; otherwise effective on September 1, 2019.

DFPS, HHSC and the Office of Court Administration indicate they could absorb the costs associated with the bill within current resources.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 530 Family and Protective Services, Department of, 529 Health and Human Services Commission, 644 Juvenile Justice Department

LBB Staff: WP, AKi, EP, AN, NA

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

April 22, 2019

TO: Honorable James B. Frank, Chair, House Committee on Human Services

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: HB3390 by Sanford (Relating to identifying relative and other designated caregivers for children in the conservatorship of the Department of Family and Protective Services.),
Committee Report 1st House, Substituted

No significant fiscal implication to the State is anticipated.

The bill would amend Family Code to require a guardian ad litem and an attorney ad litem to identify adults who could be relative or designated caregivers for a child in the conservatorship of the Department of Family and Protective Services (DFPS) to the department.

The bill would require DFPS during an investigation, temporary or permanent managing placement and court hearings, to ask a child to identify any adult, who could be a relative or designative caregiver for the child.

The executive commissioner of the Health and Human Services Commission (HHSC) would be able to adopt rules necessary to implement the bill.

The bill would take effect immediately if it receives two thirds vote in each house; otherwise effective on September 1, 2019.

DFPS, HHSC and the Office of Court Administration indicate they could absorb the costs associated with the bill within current resources.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 530 Family and Protective Services, Department of, 529 Health and Human Services Commission, 644 Juvenile Justice Department

LBB Staff: WP, AKi, EP, AN, NA

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

April 8, 2019

TO: Honorable James B. Frank, Chair, House Committee on Human Services

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: HB3390 by Sanford (Relating to a voluntary temporary caregiver program providing temporary care for children removed from their homes.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would amend Family Code to require the Department of Family and Protective Services (DFPS) to create a program to place a child removed from their home with an approved voluntary temporary caregiver.

The executive commissioner of the Health and Human Services Commission (HHSC) would be able to adopt rules necessary to implement the bill. The bill would allow an enforcement or juvenile probation officer who takes possession of a child under this chapter to release the child to an approved voluntary temporary caregiver.

The bill would take effect immediately if it receives two thirds vote in each house; otherwise effective on September 1, 2019.

Based on the LBB's analysis of DFPS duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

HHSC and the Juvenile Justice Department indicate they could absorb the costs associated with the bill within its current resources.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 529 Health and Human Services Commission, 530 Family and Protective Services, Department of, 644 Juvenile Justice Department

LBB Staff: WP, AKi, EP, AN, NA