

## **BILL ANALYSIS**

Senate Research Center  
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C.S.S.B. 1349  
By: Eckhardt  
Health & Human Services  
4/17/2021  
Committee Report (Substituted)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Currently a parent who has had their children removed must sue the Department of Family and Protective Services (DFPS) or others to reunite with their children, which can be costly and unnecessarily places the parties in an adversarial posture. Notably, incarcerated women often have their children removed to foster care or another individual (some for years) without permanency options. In Texas, more than 10,000 women in the Texas Department of Criminal Justice are mothers. Formerly incarcerated parents in particular face barriers reuniting with their children, often lacking knowledge of their legal rights and the ability to pay for legal representation. The separation of a child from their parents has detrimental consequences to their overall physical, psychological, and emotional health. The longer a child is in foster care, the possibility of negative outcomes such as homelessness and criminal justice involvement increases.

Parents who have taken accountability often work to be with their children again. S.B. 1349 would provide families a chance to reunify by requiring DFPS to proactively review after a certain time whether reunification is possible and recommendable and otherwise giving the parent a right to seek a modification. The best interest of the child would remain the primary factor.

The Texas Criminal Justice Coalition, the American Civil Liberties Union of Texas, and Texas CASA may support this legislation. We are not aware of who may oppose it.

C.S.S.B. 1349 amends current law relating to placing a child in the possessory conservatorship of the child's parents in certain situations.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Subchapter E, Chapter 263, Family Code, by adding Section 263.409, as follows:

Sec. 263.409. MODIFICATION OF FINAL ORDER. (a) Authorizes a parent to file suit to modify a final order rendered under Subchapter E (Final Order for Child Under Department Care), if the final order:

- (1) appoints as the child's managing conservator a person who is not the child's parent, other than the Department of Family and Protective Services (DFPS);
- (2) did not terminate the rights of the parent of the child; and
- (3) appoints the parent as a possessory conservator of the child.

(b) Prohibits a parent from filing a suit to modify a final order as authorized by this section before the second anniversary of the date the court rendered the final order.

(c) Authorizes the court, in a suit to modify a final order authorized by this section, to order the return of the child to the child's parent if the court finds it is in the best interest of the child.

SECTION 2. Amends Section 263.501(a), Family Code, as follows:

(a) Requires the court, if DFPS is appointed as a child's managing conservator in a final order that does not include termination of parental rights, or if DFPS is not dismissed from the suit in a final order that appoints a person who is not the child's parent as the child's managing conservator and that does not include termination of parental rights, to conduct a permanency hearing after the final order is rendered at least once every six months until DFPS is no longer the child's managing conservator, or is dismissed from the suit. Makes nonsubstantive changes.

SECTION 3. Amends Subchapter F, Chapter 263, Family Code, by adding Section 263.504, as follows:

Sec. 263.504. RETURNING CHILD TO PARENT. (a) Requires DFPS, at each permanency hearing after the second anniversary of the date the court rendered the final order appointing DFPS as the child's managing conservator without terminating parental rights, to review the child's placement to determine whether the child could be returned to the child's parent if the parent was named possessory conservator for the child in the final order.

(b) Requires DFPS, at each permanency hearing after the second anniversary of the date the court rendered the final order appointing a person who is not the child's parent as the child's managing conservator without terminating parental rights or dismissing DFPS from the suit, to review the child's placement to determine whether the child could be returned to the child's parent if the parent was named possessory conservator for the child in the final order.

(c) Authorizes DFPS to recommend reunification with the child's parent if DFPS finds:

- (1) the parent of the child has remedied the condition or conditions that led to removal of the child;
- (2) the parent of the child is willing and able to care for the child;
- (3) the best interest of the child will be served by placing the child with the child's parent; and
- (4) the child's preference is to reside with the child's parent.

(d) Authorizes the court to return the child to the child's parent if the court finds it is in the best interest of the child.

SECTION 4. Provides that the change in law made by this Act applies to a permanency hearing held on or after the effective date of this Act regardless of the date on which DFPS is named the child's managing conservator.

SECTION 5. Effective date: September 1, 2021.