

By: Oliverson

H.B. No. 4476

A BILL TO BE ENTITLED

1 AN ACT
2 relating to assessment and oversight of children placed by the
3 Department of Family and Protective Services in a residential
4 treatment center.

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

6 SECTION 1. Subchapter A, Chapter 263, Family Code, is
7 amended by adding Section 263.00201 to read as follows:

8 Sec. 263.00201. REVIEW OF PLACEMENT IN RESIDENTIAL
9 TREATMENT CENTER. (a) Not later than the 60th day after the date
10 the department places a child in a residential treatment center, a
11 court shall:

12 (1) consider the assessment, determination, and
13 documentation made by a qualified individual under Section
14 264.1077(b) regarding the child's placement;

15 (2) determine whether the child's needs can be met
16 through placement in a cottage family home or an agency foster home
17 and, if not, whether:

18 (A) placing the child in a residential treatment
19 center provides the most effective and appropriate level of care
20 for the child in the least restrictive environment; and

21 (B) placement in a residential treatment
22 facility is consistent with the short-term and long-term goals for
23 the child, as specified in the child's permanency plan; and

24 (3) approve or disapprove the placement.

1 (b) The written documentation prepared by a qualified
2 individual under Sections 264.1077(e) and (f) and any documentation
3 regarding the determination and approval or disapproval of the
4 placement in a residential treatment center by the court under
5 Subsection (a) shall be included in and made part of the child's
6 permanency plan.

7 (c) As long as a child remains in a residential treatment
8 center, the department shall submit evidence at each status review
9 and each permanency hearing held with respect to the child:

10 (1) demonstrating that:

11 (A) ongoing assessment of the strengths and needs
12 of the child continues to support the determination that the needs
13 of the child cannot be met through placement in a cottage family
14 home or an agency foster home;

15 (B) placement in a residential treatment center
16 provides the most effective and appropriate level of care for the
17 child in the least restrictive environment; and

18 (C) the placement is consistent with the
19 short-term and long-term goals for the child, as specified in the
20 child's permanency plan;

21 (2) documenting the specific treatment or service
22 needs that will be met for the child in the placement and the length
23 of time the child is expected to need the treatment or services; and

24 (3) documenting the efforts made by the department to
25 prepare the child to return home or to be placed in a cottage family
26 home or an agency foster home or with a fit and willing relative,
27 legal guardian, or adoptive parent.

1 (d) For a child who is at least 13 years of age and is placed
2 in a residential treatment center for more than 12 consecutive
3 months or 18 nonconsecutive months and for a child who is younger
4 than 13 years of age and is placed in a residential treatment center
5 for more than 6 consecutive or nonconsecutive months, the
6 department shall submit to the Administration for Children and
7 Families of the United States Department of Health and Human
8 Services:

9 (1) the most recent version of the evidence and
10 documentation described by Subsection (c); and

11 (2) the signed approval of the commissioner for the
12 continued placement of the child in that setting.

13 SECTION 2. Subchapter B, Chapter 264, Family Code, is
14 amended by adding Section 264.1077 to read as follows:

15 Sec. 264.1077. RESIDENTIAL CARE PLACEMENT: ASSESSMENT. (a)
16 In this section, "qualified individual" means a licensed health
17 care or mental health professional who is not an employee of the
18 department and who is not connected to, or affiliated with, any
19 facility in which a child may be placed by the department.

20 (b) Not later than the 30th day after the date the
21 department places a child in a residential treatment center, a
22 qualified individual, in collaboration with the child's family and
23 permanency team, shall:

24 (1) assess the strengths and needs of the child using
25 an age-appropriate, evidence-based, validated, and functional
26 assessment tool approved by the Administration for Children and
27 Families of the United States Department of Health and Human

1 Services;

2 (2) determine whether the needs of the child can be met
3 by the child's family members or through placement in a cottage
4 family home or an agency foster home;

5 (3) if the child's needs cannot be met under
6 Subdivision (2), determine whether one of the following settings
7 would provide the most effective and appropriate level of care for
8 the child in the least restrictive environment and be consistent
9 with the short-term and long-term goals for the child, as specified
10 in the permanency plan for the child:

11 (A) a qualified residential treatment program as
12 defined in the federal Family First Prevention Services Act (Title
13 VII, Div. E, Pub. L. No. 115-123);

14 (B) a setting specializing in providing
15 prenatal, postpartum, or parenting support for foster youth;

16 (C) for a child who is at least 18 years of age, a
17 supervised setting in which the child lives independently; or

18 (D) a setting providing high-quality residential
19 care and supportive services to children and youth who have been
20 found to be, or are at risk of becoming, sex trafficking victims;
21 and

22 (4) develop a list of specific short-term and
23 long-term mental and behavioral health goals for the child.

24 (c) The department shall assemble a family and permanency
25 team for the child that consists of appropriate biological family
26 members, other relatives of the child, individuals who have a
27 long-standing and significant relationship with a child or the

1 child's family, and, as appropriate, professionals who are a
2 resource to the child's family, including teachers, medical or
3 mental health providers who have treated the child, and clergy. A
4 child who is 14 years of age or older may recommend individuals to
5 serve on the child's family and permanency team.

6 (d) The department shall document in the child's permanency
7 plan:

8 (1) the reasonable and good faith effort of the
9 department to identify and include on the child's family and
10 permanency team the individuals described in Subsection (c);

11 (2) the contact information for members of the child's
12 family and permanency team, as well as contact information for
13 other family members and individuals who have a long-standing and
14 significant relationship with a child or the child's family who are
15 not part of the family and permanency team;

16 (3) evidence that meetings of the child's family and
17 permanency team, including meetings relating to the assessment
18 required under Subsection (b), are held at a time and place
19 convenient for the child's family;

20 (4) if reunification is the goal for the child,
21 evidence demonstrating that the parent from whom the child was
22 removed provided input regarding the members of the child's family
23 and permanency team;

24 (5) evidence that the results of the assessment
25 required under Subsection (b) are determined in collaboration with
26 the child's family and permanency team;

27 (6) the child's family and permanency team's placement

1 preferences relative to the assessment that recognizes that
2 children should be placed with their siblings unless a court finds
3 that such a placement is contrary to the child's best interest; and

4 (7) if the placement preferences of the child's family
5 and permanency team and the child are not the placement setting
6 recommended by the qualified individual conducting the assessment
7 under Subsection (b), the reason that the preferences of the team
8 and of the child were not recommended.

9 (e) If the qualified individual conducting the assessment
10 under Subsection (b) determines the child should not be placed in a
11 cottage family home or an agency foster home, the qualified
12 individual shall specify in writing the reasons that the needs of
13 the child cannot be met by the child's family or in a cottage family
14 home or an agency foster home. The qualified individual may not cite
15 a shortage or lack of cottage family homes or an agency foster homes
16 as an acceptable reason for determining that the needs of the child
17 cannot be met in a cottage family home or an agency foster home.

18 (f) If the qualified individual conducting the assessment
19 under Subsection (b) determines the child should be placed in a
20 residential treatment center, the qualified individual shall
21 specify in writing the reasons that the recommended placement in a
22 residential treatment center is the setting that will provide the
23 child with the most effective and appropriate level of care in the
24 least restrictive environment and how that placement is consistent
25 with the short-term and long-term goals for the child, as specified
26 in the child's permanency plan.

27 (g) The department may submit a request to the

1 Administration for Children and Families of the United States
2 Department of Health and Human Services to allow the department to
3 appoint department employees or persons connected to, or affiliated
4 with, a facility as qualified individuals to perform the
5 assessments described by Subsection (b). The request must certify
6 that the department will require the person appointed to perform an
7 assessment to maintain objectivity with respect to determining the
8 most effective and appropriate placement for a child.

9 SECTION 3. This Act takes effect September 1, 2021.