

BILL ANALYSIS

Senate Research Center

S.B. 1930
By: Kolkhorst
Health & Human Services
6/2/2023
Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Serious safety issues for children have been highlighted in residential treatment centers (RTCs) all across Texas. S.B. 1930, or the RTC Placement Bill, is based on recommendations from the 87(R) session and the S.B. 1575 workgroup established by Senator Kolkhorst's legislation. The Senate Special Committee on Child Protective Services recommendations in 2021 to develop a plan to keep kids safer and improve the quality of RTCs is the result of this bill.

S.B. 1930 will ensure children in foster care spend more time with families rather than in facilities. Additionally, it will provide greater protections while children are in foster care facilities. Foster care facilities, such as RTCs, may hamper healthy child development, make it harder for children to find permanent homes, and can cost up to 10 times more than placement with a foster family. Department of Family and Protective Services data shows only five percent of children in Texas foster care are placed in RTCs. However, one-third of all abuse, neglect, or exploitation occurs in the foster care system in an RTC.

This bill outlines new duties for attorneys ad litem or volunteers representing children placed in RTCs. It strengthens current laws to ensure parents are able to participate in meetings about their child's treatment in an RTC. This bill enables judges to proactively monitor the child's progress, and successful return to their families. Finally, this bill ensures children are only placed in an RTC when it is in the "best interest for the child." In this capacity, the court must observe the child's progress and plan to return the child to the family as quickly and successfully as possible.

(Original Author's/Sponsor's Statement of Intent)

S.B. 1930 amends current law relating to policies and procedures regarding children placed by the Department of Family and Protective Services in a residential treatment center or qualified residential treatment program.

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 Section 107.002, Family Code, by amending Subsection (b) and adding Subsection (j), as follows:

(b) Requires a guardian ad litem appointed for the child under Chapter 107 (Special Appointments, Child Custody Evaluations, and Adoption Evaluations) to take certain actions, including seeking to elicit in a developmentally appropriate manner the child's expressed objectives and opinion of and concerns regarding the child's current or proposed placement. Makes nonsubstantive changes.

(j) Provides that the guardian ad litem, if a child is or is authorized to be placed in a residential treatment center as defined by Section 263.001 (Definitions), a qualified residential treatment program as defined by Section 263.00201 (Review of Placement in Qualified Residential Treatment Program), or a similar treatment setting:

(1) is required to:

(A) review any available information regarding whether the placement is appropriate to meet the child's specific needs;

(B) meet in person with the child before providing a recommendation under Paragraph (C); and

(C) provide to the court by report or testimony a recommendation regarding the placement that is in the best interest of the child; and

(2) is authorized, as appropriate, to:

(A) request a placement conference; and

(B) participate in any conferences conducted by the Department of Family and Protective Services (DFPS) or the child's treatment team related to initial and ongoing placement in a residential treatment center, qualified residential treatment program, or similar treatment setting unless there is good cause shown for excluding the guardian ad litem.

SECTION 2. Amends Section 107.004, Family Code, by adding Subsection (f), as follows:

(f) Provides that the attorney ad litem, if a child is considered for placement in a residential treatment center as defined by Section 263.001, a qualified residential treatment program as defined by Section 263.00201, or a similar treatment setting:

(1) is required to:

(A) review any available information related to the child's needs, including the child and adolescent needs and strengths assessment, any psychological evaluations, discharge notices from current or past placements, recent incident reports, and counseling notes;

(B) review any available information regarding whether the placement is appropriate to meet the child's specific needs;

(C) meet with the child before any hearing to allow the attorney ad litem to:

(i) prepare for the hearing in accordance with the child's expressed representation objectives; and

(ii) elicit, in a developmentally appropriate manner, the child's opinion of and concerns regarding the child's current or proposed placement;

(D) advise the child in a developmentally appropriate manner regarding DFPS' request or recommendation for placement and the likelihood of the request being granted; and

(E) advocate to the court for the child's specific desires regarding the requested placement in accordance with Subsection (a)(2) (relating to requiring the attorney ad litem appointed for a child, in a developmentally appropriate manner, to represent the child's expressed objectives of representation and follow the child's expressed objectives of representation during the course of litigation in certain circumstances); and

(2) is authorized, as appropriate, to:

(A) request a placement conference; and

(B) participate in any conferences conducted by DFPS or the child's treatment team related to initial and ongoing placement in a residential treatment center, qualified residential treatment program, or similar treatment setting.

SECTION 3. Amends Section 107.0131(a), Family Code, as follows:

(a) Provides that an attorney ad litem appointed under Section 107.013 (Mandatory Appointment of Attorney ad Litem for Parent) to represent the interests of a parent is entitled to participate in certain case staffings and conferences, including a case staffing related to a placement in a residential treatment center or qualified residential treatment program.

SECTION 4. Amends Section 263.001(a), Family Code, by adding Subdivision (3-c) to define "residential treatment center."

SECTION 5. Amends Section 263.002, Family Code, by adding Subsections (e) and (f), as follows:

(e) Requires the court, if a child is placed or is referred to and awaiting placement in a residential treatment center, to determine whether:

(1) the child's needs can be met through placement in a family-like setting;

(2) the recommended or existing program can provide the most effective and appropriate level of care for the child;

(3) the recommended or existing program is the least restrictive setting consistent with the child's best interest and individual needs; and

(4) the placement is consistent with the short-term and long-term goals for the child, as specified by the child's permanency plan.

(f) Authorizes the court, in making a determination under Subsection (e), to consider:

(1) medical, psychological, or psychiatric assessments;

(2) the child's current treatment plan and progress being made;

(3) any significant medical, legal, or behavioral incidents involving the child;

(4) the reasons for the child's discharge from any previous placement or the child's current placement;

(5) the programs available at the facility to address the child's needs;

(6) the program's plan to discharge the child after treatment;

(7) whether there are other programs that more effectively meet the child's needs; and

(8) any other information that would assist the court in making the determination.

SECTION 6. Amends Section 263.202(b), Family Code, as follows:

(b) Requires the court to review the service plan that DFPS filed under Chapter 263 (Review of Placement of Children Under Care of Department of Family and Protective Services) for reasonableness, accuracy, and compliance with requirements of court orders and make findings as to whether:

(1)-(2) makes no changes to these subdivisions;

(3)-(4) makes nonsubstantive changes to these subdivisions;

(5) based on the court's determination under Section 263.002 (Review of Placements by Court; Findings), continued placement is appropriate if the child is placed in a residential treatment center; and

(6) based on the court's determination under Section 263.00201, continued placement is appropriate if the child is placed in a qualified residential treatment program.

SECTION 7. Amends Section 263.306(a-1), Family Code, as follows:

(a-1) Requires the court, at each permanency hearing before a final order is rendered, to take certain actions, including reviewing the permanency progress report to determine certain information, including, based on the court's determination under Section 263.002, whether continued placement is appropriate if the child is placed in a residential treatment center and, based on the court's determination under Section 263.00201, whether continued placement is appropriate if the child is placed in a qualified residential treatment program. Makes nonsubstantive changes.

SECTION 8. Amends Section 263.5031(a), Family Code, as follows:

(a) Requires the court, at each permanency hearing after the court renders a final order, to take certain actions, including reviewing the permanency progress report to determine certain information, including, based on the court's determination under Section 263.002, whether continued placement is appropriate if the child is placed in a residential treatment center and, based on the court's determination under Section 263.00201, whether continued placement is appropriate if the child is placed in a qualified residential treatment program. Makes nonsubstantive changes.

SECTION 9. Amends Section 264.018(a)(5), Family Code, to redefine "significant event."

SECTION 10. Effective date: September 1, 2023.