

By: Campos

H.B. No. 1972

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to policies and procedures regarding children placed by  
3 the Department of Family and Protective Services in a residential  
4 treatment center or program.

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

6 SECTION 1. Section 263.001(a), Family Code, is amended by  
7 adding Subdivision (5) to read as follows:

8 (5) "Residential treatment center" means a general  
9 residential operation licensed under Chapter 42, Human Resources  
10 Code, that provides treatment services.

11 SECTION 2. Section 263.002, Family Code, is amended by  
12 adding Subsections (e) and (f) to read as follows:

13 (e) If a child is or may be placed in a residential treatment  
14 center, the court shall determine whether:

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

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

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

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

1        (f) In making a determination under Subsection (e), the  
2 court may consider:

3            (1) psychological or psychiatric assessments;

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

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

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

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

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

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

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

18        SECTION 3. Section 263.202(b), Family Code, is amended to  
19 read as follows:

20        (b) Except as otherwise provided by this subchapter, a  
21 status hearing shall be limited to matters related to the contents  
22 and execution of the service plan filed with the court. The court  
23 shall review the service plan that the department filed under this  
24 chapter for reasonableness, accuracy, and compliance with  
25 requirements of court orders and make findings as to whether:

26           (1) a plan that has the goal of returning the child to  
27 the child's parents adequately ensures that reasonable efforts are

1 made to enable the child's parents to provide a safe environment for  
2 the child;

3 (2) the child's parents have reviewed and understand  
4 the plan and have been advised that unless the parents are willing  
5 and able to provide the child with a safe environment, even with the  
6 assistance of a service plan, within the reasonable period of time  
7 specified in the plan, the parents' parental and custodial duties  
8 and rights may be subject to restriction or to termination under  
9 this code or the child may not be returned to the parents;

10 (3) the plan is narrowly tailored to address any  
11 specific issues identified by the department; ~~and~~

12 (4) the child's parents and the representative of the  
13 department have signed the plan;

14 (5) based on the court's determination under Section  
15 263.002, continued placement is appropriate if the child is placed  
16 in a residential treatment center; and

17 (6) based on the court's determination under Section  
18 263.00201, continued placement is appropriate if the child is  
19 placed in a qualified residential treatment program.

20 SECTION 4. Section 263.306(a-1), Family Code, is amended to  
21 read as follows:

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

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

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

1 (A) locating and requesting service of citation  
2 on all persons entitled to service of citation under Section  
3 102.009; and

4 (B) obtaining the assistance of a parent in  
5 providing information necessary to locate an absent parent, alleged  
6 father, relative of the child, or other adult identified by the  
7 child as a potential relative or designated caregiver;

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

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

15 (5) 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) the continuing necessity and appropriateness  
21 of the placement of the child, including with respect to a child who  
22 has been placed outside of this state, whether the placement  
23 continues to be in the best interest of the child;

24 (C) the appropriateness of the primary and  
25 alternative permanency goals for the child developed in accordance  
26 with department rule and whether the department has made reasonable  
27 efforts to finalize the permanency plan, including the concurrent

1 permanency goals, in effect for the child;

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

5 (E) whether the child has been provided the  
6 opportunity, in a developmentally appropriate manner, to identify  
7 any adults, particularly an adult residing in the child's  
8 community, who could be a relative or designated caregiver for the  
9 child;

10 (F) for a child receiving psychotropic  
11 medication, whether the child:

12 (i) has been provided appropriate  
13 nonpharmacological interventions, therapies, or strategies to meet  
14 the child's needs; or

15 (ii) has been seen by the prescribing  
16 physician, physician assistant, or advanced practice nurse at least  
17 once every 90 days;

18 (G) whether an education decision-maker for the  
19 child has been identified, the child's education needs and goals  
20 have been identified and addressed, and there have been major  
21 changes in the child's school performance or there have been  
22 serious disciplinary events;

23 (H) for a child 14 years of age or older, whether  
24 services that are needed to assist the child in transitioning from  
25 substitute care to independent living are available in the child's  
26 community; ~~and~~

27 (I) for a child whose permanency goal is another

1 planned permanent living arrangement:

2 (i) the desired permanency outcome for the  
3 child, by asking the child;

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

8 (a) return home;

9 (b) be placed for adoption;

10 (c) be placed with a legal guardian;

11 or

12 (d) be placed with a fit and willing  
13 relative;

14 (iii) whether the department has conducted  
15 an independent living skills assessment under Section  
16 [264.121\(a-3\)](#);

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

21 (v) if the youth is 16 years of age or  
22 older, whether there is evidence that the department has provided  
23 the youth with the documents and information listed in Section  
24 [264.121\(e\)](#); and

25 (vi) if the youth is 18 years of age or  
26 older or has had the disabilities of minority removed, whether  
27 there is evidence that the department has provided the youth with

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

2 (J) based on the court's determination under  
3 Section 263.002, whether continued placement is appropriate if the  
4 child is placed in a residential treatment center; and

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

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

12 (7) estimate a likely date by which the child may be  
13 returned to and safely maintained in the child's home, placed for  
14 adoption, or placed in permanent managing conservatorship; and

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

17 SECTION 5. Section 263.5031(a), Family Code, is amended to  
18 read as follows:

19 (a) At each permanency hearing after the court renders a  
20 final order, the court shall:

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

23 (2) review the efforts of the department or other  
24 agency in notifying persons entitled to notice under Section  
25 263.0021;

26 (3) for a child placed with a relative of the child or  
27 other designated caregiver, review the efforts of the department to

1 inform the caregiver of:

2 (A) the option to become verified by a licensed  
3 child-placing agency to operate an agency foster home, if  
4 applicable; and

5 (B) the permanency care assistance program under  
6 Subchapter K, Chapter 264; and

7 (4) review the permanency progress report to  
8 determine:

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

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

16 (C) whether the department placed the child with  
17 a relative or designated caregiver and the continuing necessity and  
18 appropriateness of the placement of the child, including with  
19 respect to a child who has been placed outside of this state,  
20 whether the placement continues to be in the best interest of the  
21 child;

22 (D) if the child is placed in institutional care,  
23 whether efforts have been made to ensure that the child is placed in  
24 the least restrictive environment consistent with the child's best  
25 interest and special needs;

26 (E) the appropriateness of the primary and  
27 alternative permanency goals for the child, whether the department



1 has made reasonable efforts to finalize the permanency plan,  
2 including the concurrent permanency goals, in effect for the child,  
3 and whether:

4 (i) the department has exercised due  
5 diligence in attempting to place the child for adoption if parental  
6 rights to the child have been terminated and the child is eligible  
7 for adoption; or

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

11 (F) for a child whose permanency goal is another  
12 planned permanent living arrangement:

13 (i) the desired permanency outcome for the  
14 child, by asking the child;

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

19 (a) return home;

20 (b) be placed for adoption;

21 (c) be placed with a legal guardian;

22 or

23 (d) be placed with a fit and willing  
24 relative;

25 (iii) whether the department has conducted  
26 an independent living skills assessment under Section  
27 [264.121\(a-3\)](#);

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

5 (v) if the youth is 16 years of age or  
6 older, whether there is evidence that the department has provided  
7 the youth with the documents and information listed in Section  
8 [264.121\(e\)](#); and

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

13 (G) if the child is 14 years of age or older,  
14 whether services that are needed to assist the child in  
15 transitioning from substitute care to independent living are  
16 available in the child's community;

17 (H) whether the child is receiving appropriate  
18 medical care and has been provided the opportunity, in a  
19 developmentally appropriate manner, to express the child's opinion  
20 on any medical care provided;

21 (I) for a child receiving psychotropic  
22 medication, whether the child:

23 (i) has been provided appropriate  
24 nonpharmacological interventions, therapies, or strategies to meet  
25 the child's needs; or

26 (ii) has been seen by the prescribing  
27 physician, physician assistant, or advanced practice nurse at least

1 once every 90 days;

2 (J) whether an education decision-maker for the  
3 child has been identified, the child's education needs and goals  
4 have been identified and addressed, and there are major changes in  
5 the child's school performance or there have been serious  
6 disciplinary events;

7 (K) for a child for whom the department has been  
8 named managing conservator in a final order that does not include  
9 termination of parental rights, whether to order the department to  
10 provide services to a parent for not more than six months after the  
11 date of the permanency hearing if:

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

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

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

18 and

19 (b) likely to result in the child's  
20 safe return to the child's parent; ~~and~~

21 (L) whether the department has identified a  
22 family or other caring adult who has made a permanent commitment to  
23 the child;

24 (M) based on the court's determination under  
25 Section 263.002, whether continued placement is appropriate if the  
26 child is placed in a residential treatment center; and

27 (N) based on the court's determination under

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1 Section 263.00201, whether continued placement is appropriate if  
2 the child is placed in a qualified residential treatment program.

3 SECTION 6. This Act takes effect September 1, 2023.