

By: Campos

H.B. No. 5051

A BILL TO BE ENTITLED

AN ACT

relating to emancipation and extended foster care for certain older youth and young adults within the jurisdiction of court in a suit affecting the parent child relationship involving the Department of Family and Protective Services.

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

SECTION 1. Chapter 31 of the Family Code is amended to add section 31.0011 to read as follows:

31.0011 REMOVAL OF DISABILITIES OF MINORITY FOR A CHILD IN THE
MANAGING CONSERVATORSHIP OF THE DEPARTMENT

(a) Notwithstanding the requirements of section 31.001, the Department of Family and Protective Services may file a petition to have the disabilities of minority removed for a child in its conservatorship if the child:

(1) is at least 17 years old; and

(2) has refused services from the department for a sixty-day period prior to the filing of the petition; or

(3) has been consistently absent from the child's placement, including an unlicensed setting for temporary emergency care under Section 264.107(g) for a sixty-day period prior to the filing of the petition.

(b) The petition under this section must be accompanied by sworn affidavit describing the efforts made by the department to engage the child in services and return the child to the possession

1 of the department.

2 (c) An order removing the disabilities of minority under
3 this section is for the limited purpose of beginning a period of
4 trial independence pursuant to section 263.601 and other limited
5 purposes ordered by the court. An order for the removal of the
6 disabilities of minority for general purposes must meet the
7 requirements of section 31.001.

8 SECTION 2. Section 31.003 of the Family Code is amended to
9 read as follows:

10 (a) The petitioner shall file the petition in the county in
11 which the petitioner resides.

12 (b) A petition for emancipation of a child in the permanent
13 managing conservatorship of the department under section 31.0011
14 shall be filed in the court of continuing exclusive jurisdiction.

15 SECTION 3. Section 263.601 of the Family Code is amended to
16 read as follows:

17 (1) "Extended foster care" means a residential living
18 arrangement in which a young adult voluntarily delegates to the
19 department responsibility for the young adult's placement and care
20 and in which the young adult resides with a foster parent or other
21 residential services provider that is:

22 (A) licensed or approved by the department or
23 verified by a licensed or certified child-placing agency; and

24 (B) paid under a contract with the department.

25 (1-a) Extended foster care does not include hotels or
26 other unlicensed settings that are used for temporary emergency
27 care under Section 264.107(g).

1 (2) "Guardianship services" means the services
2 provided by the Department of Aging and Disability Services under
3 Subchapter E, Chapter 161, Human Resources Code.

4 (3) "Institution" means a residential facility that is
5 operated, licensed, registered, certified, or verified by a state
6 agency other than the department. The term includes a residential
7 service provider under a Medicaid waiver program authorized under
8 Section 1915(c) of the federal Social Security Act that provides
9 services at a residence other than the young adult's own home.

10 (3-a) "Trial independence" means the status assigned
11 to a young adult under Section 263.6015.

12 (4) "Young adult" means a person who was in the
13 conservatorship of the department on the day before the person's
14 18th birthday or who had the disabilities of minority removed
15 pursuant to section 31.0011.

16 SECTION 4. Section 263.6015 of the Family Code is amended to
17 read as follows:

18 (a) A young adult is assigned trial independence status when
19 the young adult:

20 (1) does not enter extended foster care at the time of
21 the young adult's 18th birthday or upon having the disabilities of
22 minority removed pursuant to section 31.011; or

23 (2) exits extended foster care before the young
24 adult's 21st birthday.

25 (b) Except as provided by Subsection (c), a court order is
26 not required for a young adult to be assigned trial independence
27 status. Trial independence is mandatory for a period of at least

1 six months beginning on:

2 (1) the date of the young adult's 18th birthday for a
3 young adult described by Subsection (a)(1); or

4 (2) the date the young adult exits extended foster
5 care.

6 (b-1) Trial independence for a young adult who had the
7 disabilities of minority removed pursuant to section 31.0011 is
8 mandatory for a period beginning on the date the young adult's
9 disabilities of minority were removed by court order and continue
10 for a period of six months or until the young adult's 18th birthday,
11 whichever date is later, unless the young adult is cooperating with
12 the department and the court orders another six month of trial
13 independence not to exceed one year as described in subsection(c).

14 (c) A court may order trial independence status extended for
15 a period that exceeds the mandatory period under Subsection (b) but
16 does not exceed one year from the date the period under Subsection
17 (b) commences.

18 (d) Except as provided by Subsection (e), a young adult who
19 enters or reenters extended foster care after a period of trial
20 independence must complete a new period of trial independence as
21 provided by Subsection (b)(2).

22 (e) The trial independence status of a young adult ends on
23 the young adult's 21st birthday.

24 SECTION 5. Section 263.602, Family Code, is amended to read
25 as follows:

26 (a) Except as provided by Subsection (f), a court that had
27 jurisdiction over a young adult on the day before the young adult's

1 18th birthday continues to have extended jurisdiction over the
2 young adult and shall retain the case on the court's docket while
3 the young adult is in extended foster care and during trial
4 independence as described by Section [263.6015](#).

5 (b) A court with extended jurisdiction over a young adult in
6 extended foster care shall conduct extended foster care review
7 hearings every six months for the purpose of reviewing and making
8 findings regarding:

9 (1) whether the young adult's living arrangement is
10 safe and appropriate and whether the department has made reasonable
11 efforts to place the young adult in the least restrictive
12 environment necessary to meet the young adult's needs;

13 (2) whether the department is making reasonable
14 efforts to finalize the permanency plan that is in effect for the
15 young adult, including a permanency plan for independent living;

16 (3) whether, for a young adult whose permanency plan
17 is independent living:

18 (A) the young adult participated in the
19 development of the plan of service;

20 (B) the young adult's plan of service reflects
21 the independent living skills and appropriate services needed to
22 achieve independence by the projected date; and

23 (C) the young adult continues to make reasonable
24 progress in developing the skills needed to achieve independence by
25 the projected date; and

26 (4) whether additional services that the department is
27 authorized to provide are needed to meet the needs of the young

1 adult.

2 (c) Not later than the 10th day before the date set for a
3 hearing under this section, the department shall file with the
4 court a copy of the young adult's plan of service and a report that
5 addresses the issues described by Subsection (b).

6 (d) Notice of an extended foster care review hearing shall
7 be given as provided by Rule 21a, Texas Rules of Civil Procedure, to
8 the following persons, each of whom has a right to present evidence
9 and be heard at the hearing:

10 (1) the young adult who is the subject of the suit;

11 (2) the department;

12 (3) the foster parent with whom the young adult is
13 placed and the administrator of a child-placing agency responsible
14 for placing the young adult, if applicable;

15 (4) the director of the residential child-care
16 facility or other approved provider with whom the young adult is
17 placed, if applicable;

18 (5) each parent of the young adult whose parental
19 rights have not been terminated and who is still actively involved
20 in the life of the young adult;

21 (6) a legal guardian of the young adult, if
22 applicable; and

23 (7) the young adult's attorney ad litem, guardian ad
24 litem, and volunteer advocate, the appointment of which has not
25 been previously dismissed by the court.

26 (e) If, after reviewing the young adult's plan of service
27 and the report filed under Subsection (c), and any additional

1 testimony and evidence presented at the review hearing, the court
2 determines that the young adult is entitled to additional services,
3 the court may order the department to take appropriate action to
4 ensure that the young adult receives those services.

5 (e-1) If the department reports that the young adult is not
6 participating in the young adults' plan of service in developing
7 the skills needed to achieve independence, the court shall order
8 the young adult to obtain the experiential life-skill training
9 described by Sections 264.121(a-1) and (a-2) and other courses or
10 services identified by the department as part of the young adult's
11 plan of service.

12 (f) Unless the court extends its jurisdiction over a young
13 adult beyond the end of trial independence as provided by Section
14 263.6021(a) or 263.603(a), the court's extended jurisdiction over a
15 young adult as described in Subsection (a) terminates on the
16 earlier of:

17 (1) the last day of the month in which trial
18 independence ends; ~~or~~

19 (2) the young adult's 21st birthday;

20 (3) the date the young adult withdraws consent to the
21 extension of the court's jurisdiction in writing or in court;

22 (4) the young adult has refused services for a 60-day
23 period.

24 (g) A court with extended jurisdiction described by this
25 section is not required to conduct periodic hearings described in
26 this section for a young adult during trial independence and may not
27 compel a young adult who has elected to not enter or has exited

1 extended foster care to attend a court hearing. A court with
2 extended jurisdiction during trial independence may, at the request
3 of a young adult, conduct a hearing described by Subsection (b) or
4 by Section [263.6021](#) to review any transitional living services the
5 young adult is receiving during trial independence.

6 (h) A court shall not order a young adult in extended foster
7 care to receive temporary emergency care under Section [264.107\(g\)](#)
8 in a hotel or other unlicensed setting.

9 SECTION 6. Section [263.608](#), Family Code, is amended as
10 follows:

11 (a) A young adult who consents to the continued jurisdiction
12 of the court has the same rights as any other adult of the same age.

13 (b) The court is prohibited from extending trial
14 independence status as described by Section [263.6015\(c\)](#) or
15 extending jurisdiction over a young adult as described by Section
16 [263.602](#) if a young adult objects in court or in writing.

17 SECTION 7. This Act takes effect immediately if it receives
18 a vote of two-thirds of all the members elected to each house, as
19 provided by Section [39](#), Article III, Texas Constitution. If this
20 Act does not receive the vote necessary for immediate effect, this
21 act takes effect September 1, 2023.