

1 AN ACT

2 relating to suits affecting the parent-child relationship,
3 including temporary orders, orders for modification, adoption
4 assistance, and foster care.

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

6 SECTION 1. Section 154.062(c), Family Code, is amended to
7 read as follows:

8 (c) Resources do not include:

9 (1) return of principal or capital;

10 (2) accounts receivable; [or]

15 SECTION 2. Section 156.006(b), Family Code, is amended to
16 read as follows:
17 (b) While a suit for modification is pending, the court may
18 not render a temporary order that has the effect of changing the
19 designation of the person who has the exclusive right to designate
20 the primary residence of the child under the final order unless the
21 temporary order is in the best interest of the child and:

22 (1) the order is necessary because the child's present
23 circumstances would significantly impair the child's physical
24 health or emotional development:

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5 (3) the child is 12 years of age or older and has
6 expressed to [filed with] the court in chambers as provided by
7 Section 153.009 [in writing] the name of the person who is the
8 child's preference to have the exclusive right to designate the
9 primary residence of the child [and the temporary order designating
10 that person is in the best interest of the child].

11 SECTION 3. Section 156.101, Family Code, is amended to read
12 as follows:

13 Sec. 156.101. GROUNDS FOR MODIFICATION OF ORDER
14 ESTABLISHING CONSERVATORSHIP OR POSSESSION AND ACCESS. The court
15 may modify an order that provides for the appointment of a
16 conservator of a child, that provides the terms and conditions of
17 conservatorship, or that provides for the possession of or access
18 to a child if modification would be in the best interest of the
19 child and:

20 (1) the circumstances of the child, a conservator, or
21 other party affected by the order have materially and substantially
22 changed since the earlier of:

23 (A) the date of the rendition of the order; or

24 (B) the date of the signing of a mediated or
25 collaborative law settlement agreement on which the order is based;

26 (2) the child is at least 12 years of age and has
27 expressed to [filed with] the court in chambers as provided by

1 Section 153.009 [~~, in writing,~~] the name of the person who is the
2 child's preference to have the exclusive right to designate the
3 primary residence of the child; or

4 (3) the conservator who has the exclusive right to
5 designate the primary residence of the child has voluntarily
6 relinquished the primary care and possession of the child to
7 another person for at least six months.

8 SECTION 4. Section 162.3041, Family Code, is amended by
9 adding Subsection (a-1) and amending Subsection (d) to read as
10 follows:

11 (a-1) Notwithstanding Subsection (a), if the department
12 first entered into an adoption assistance agreement with a child's
13 adoptive parents after the child's 16th birthday, the department
14 shall, in accordance with rules adopted by the executive
15 commissioner of the Health and Human Services Commission, offer
16 adoption assistance after the child's 18th birthday to the child's
17 adoptive parents under an existing adoption agreement until the
18 last day of the month of the child's 21st birthday, provided the
19 child is:

20 (1) regularly attending high school or enrolled in a
21 program leading toward a high school diploma or high school
22 equivalency certificate;

23 (2) regularly attending an institution of higher
24 education or a postsecondary vocational or technical program;

25 (3) participating in a program or activity that
26 promotes, or removes barriers to, employment;

27 (4) employed for at least 80 hours a month; or

11 SECTION 5. Subchapter A, Chapter 264, Family Code, is
12 amended by adding Section 264.015 to read as follows:

13 Sec. 264.015. TRAINING. The department shall include
14 training in trauma-informed programs and services in any training
15 the department provides to foster parents, adoptive parents,
16 kinship caregivers, and department caseworkers. The department
17 shall pay for the training provided under this section with gifts,
18 donations, and grants and any federal money available through the
19 Fostering Connections to Success and Increasing Adoptions Act of
20 2008 (Pub. L. No. 110-351).

21 SECTION 6. Section 264.101, Family Code, is amended by
22 amending Subsections (a-1) and (d) and adding Subsection (a-2) to
23 read as follows:

24 (a-1) The department shall continue to pay the cost of
25 foster care for a child for whom the department provides care,
26 including medical care, until the last day of the month in which
27 [later of:

1 [~~(1) the date~~] the child attains the age of 18. The
2 department shall continue to pay the cost of foster care for a child
3 after the month in which the child attains the age of 18 as long as
4 the child is:

5 (1) regularly attending[~~, or~~
6 [~~(2) the date the child graduates from~~] high school or
7 [ceases to be] enrolled in a [secondary school in a] program leading
8 toward a high school diploma or high school equivalency
9 certificate;

10 (2) regularly attending an institution of higher
11 education or a postsecondary vocational or technical program;

12 (3) participating in a program or activity that
13 promotes, or removes barriers to, employment;

14 (4) employed for at least 80 hours a month; or

15 (5) incapable of performing the activities described
16 by Subdivisions (1)-(4) due to a documented medical condition.

17 (a-2) The department shall continue to pay the cost of
18 foster care under:

19 (1) Subsection (a-1)(1) until the last day of the
20 month in which the child attains the age of 22; and

21 (2) Subsections (a-1)(2)-(5) until the last day of the
22 month the child attains the age of 21.

23 (d) The executive commissioner of the Health and Human
24 Services Commission may adopt rules that establish criteria and
25 guidelines for the payment of foster care, including medical care,
26 for a child and for providing care for a child after the child
27 becomes 18 years of age if the child meets the requirements for

1 continued foster care under Subsection (a-1) [is regularly
2 attending an institution of higher education or a vocational or
3 technical program].

4 SECTION 7. Sections 264.751(1) and (3), Family Code, are
5 amended to read as follows:

6 (1) "Designated caregiver" means an individual who has
7 a longstanding and significant relationship with a child for whom
8 the department has been appointed managing conservator and who:

9 (A) is appointed to provide substitute care for
10 the child, but is not licensed by the department or verified by a
11 licensed child-placing agency or the department [certified] to
12 operate a foster home, foster group home, agency foster home, or
13 agency foster group home under Chapter 42, Human Resources Code; or
14 (B) is subsequently appointed permanent managing
15 conservator of the child after providing the care described by
16 Paragraph (A).

17 (3) "Relative caregiver" means a relative who:

18 (A) provides substitute care for a child for whom
19 the department has been appointed managing conservator, but who is
20 not licensed by the department or verified by a licensed
21 child-placing agency or the department [certified] to operate a
22 foster home, foster group home, agency foster home, or agency
23 foster group home under Chapter 42, Human Resources Code; or

24 (B) is subsequently appointed permanent managing
25 conservator of the child after providing the care described by
26 Paragraph (A).

27 SECTION 8. Subchapter I, Chapter 264, Family Code, is

1 amended by adding Section 264.760 to read as follows:

2 Sec. 264.760. ELIGIBILITY FOR FOSTER CARE PAYMENTS AND
3 PERMANENCY CARE ASSISTANCE. Notwithstanding any other provision of
4 this subchapter, a relative or other designated caregiver who
5 becomes licensed by the department or verified by a licensed
6 child-placing agency or the department to operate a foster home,
7 foster group home, agency foster home, or agency foster group home
8 under Chapter 42, Human Resources Code, may receive foster care
9 payments in lieu of the benefits provided by this subchapter,
10 beginning with the first month in which the relative or other
11 designated caregiver becomes licensed or is verified.

12 SECTION 9. Chapter 264, Family Code, is amended by adding
13 Subchapter K to read as follows:

14 SUBCHAPTER K. PERMANENCY CARE ASSISTANCE PROGRAM

15 Sec. 264.851. DEFINITIONS. In this subchapter:

16 (1) "Foster child" means a child who is or was in the
17 temporary or permanent managing conservatorship of the department.

18 (2) "Kinship provider" means a relative of a foster
19 child, or another adult with a longstanding and significant
20 relationship with a foster child before the child was placed with
21 the person by the department, with whom the child resides for at
22 least six consecutive months after the person becomes licensed by
23 the department or verified by a licensed child-placing agency or
24 the department to provide foster care.

25 (3) "Permanency care assistance agreement" means a
26 written agreement between the department and a kinship provider for
27 the payment of permanency care assistance benefits as provided by

1 this subchapter.

2 (4) "Permanency care assistance benefits" means
3 monthly payments paid by the department to a kinship provider under
4 a permanency care assistance agreement.

5 (5) "Relative" means a person related to a foster
6 child by consanguinity or affinity.

7 Sec. 264.852. PERMANENCY CARE ASSISTANCE AGREEMENTS. (a)
8 The department shall enter into a permanency care assistance
9 agreement with a kinship provider who is eligible to receive
10 permanency care assistance benefits.

11 (b) The department may enter into a permanency care
12 assistance agreement with a kinship provider who is the prospective
13 managing conservator of a foster child only if the kinship provider
14 meets the eligibility criteria under federal and state law and
15 department rule.

16 (c) A court may not order the department to enter into a
17 permanency care assistance agreement with a kinship provider unless
18 the kinship provider meets the eligibility criteria under federal
19 and state law and department rule, including requirements relating
20 to the criminal history background check of a kinship provider.

21 (d) A permanency care assistance agreement may provide for
22 reimbursement of the nonrecurring expenses a kinship provider
23 incurs in obtaining permanent managing conservatorship of a foster
24 child, including attorney's fees and court costs. The
25 reimbursement of the nonrecurring expenses under this subsection
26 may not exceed \$2,000.

27 Sec. 264.853. RULES. The executive commissioner shall

1 adopt rules necessary to implement the permanency care assistance
2 program. The rules must:

3 (1) establish eligibility requirements to receive
4 permanency care assistance benefits under the program; and

5 (2) ensure that the program conforms to the
6 requirements for federal assistance as required by the Fostering
7 Connections to Success and Increasing Adoptions Act of 2008 (Pub.
8 L. No. 110-351).

9 Sec. 264.854. MAXIMUM PAYMENT AMOUNT. The executive
10 commissioner shall set the maximum monthly amount of assistance
11 payments under a permanency care assistance agreement in an amount
12 that does not exceed the amount of the monthly foster care
13 maintenance payment the department would pay to a foster care
14 provider caring for the child for whom the kinship provider is
15 caring.

16 Sec. 264.855. CONTINUED ELIGIBILITY FOR PERMANENCY CARE
17 ASSISTANCE BENEFITS AFTER AGE 18. If the department first entered
18 into a permanency care assistance agreement with a foster child's
19 kinship provider after the child's 16th birthday, the department
20 may continue to provide permanency care assistance payments until
21 the last day of the month of the child's 21st birthday, provided the
22 child is:

23 (1) regularly attending high school or enrolled in a
24 program leading toward a high school diploma or high school
25 equivalency certificate;

26 (2) regularly attending an institution of higher
27 education or a postsecondary vocational or technical program;

1 (3) participating in a program or activity that
2 promotes, or removes barriers to, employment;
3 (4) employed for at least 80 hours a month; or
4 (5) incapable of any of the activities described by
5 Subdivisions (1)-(4) due to a documented medical condition.

6 Sec. 264.856. APPROPRIATION REQUIRED. The department is
7 not required to provide permanency care assistance benefits under
8 this subchapter unless the department is specifically appropriated
9 money for purposes of this subchapter.

10 SECTION 10. Section 153.008, Family Code, is repealed.

11 SECTION 11. The change in law made by this Act to Section
12 154.062(c), Family Code, applies only to a proceeding to establish
13 or modify a child support obligation that is pending in a trial
14 court on or filed on or after the effective date of this Act.

15 SECTION 12. The changes in law made by this Act by the
16 amendment of Sections 156.006(b) and 156.101, Family Code, apply to
17 a suit for modification filed on or after the effective date of this
18 Act. A suit for modification filed before that date is governed by
19 the law in effect on the date the suit was filed, and the former law
20 is continued in effect for that purpose.

21 SECTION 13. (a) Not later than April 1, 2010, the executive
22 commissioner of the Health and Human Services Commission shall
23 adopt rules to implement and administer the changes to Sections
24 162.3041 and 264.101, Family Code, as amended by this Act, and
25 Subchapter K, Chapter 264, Family Code, as added by this Act.

26 (b) The rules adopted under Subsection (a) of this section
27 shall provide that no payment for adoption assistance or permanency

1 care assistance can be paid on behalf of a child over the age of 17
2 for any month prior to October 1, 2010.

3 (c) The rules adopted under Subsection (a) of this section
4 shall provide that no payment of foster care benefits can be made
5 under the amendments to Section 264.101, Family Code, with respect
6 to a child over the age of 17 for any month prior to October 1, 2010,
7 unless the child was eligible for foster care benefits after age 17
8 under the law and rules as they existed prior to the effective date
9 of this Act.

10 SECTION 14. If before implementing any provision of this
11 Act a state agency determines that a waiver or authorization from a
12 federal agency is necessary for implementation of that provision,
13 the agency affected by the provision shall request the waiver or
14 authorization and may delay implementing that provision until the
15 waiver or authorization is granted.

16 SECTION 15. This Act does not make an appropriation. A
17 provision in this Act that creates a new governmental program,
18 creates a new entitlement, or imposes a new duty on a governmental
19 entity is not mandatory during a fiscal period for which the
20 legislature has not made a specific appropriation to implement the
21 provision.

22 SECTION 16. This Act takes effect September 1, 2009.

H.B. No. 1151

President of the Senate

Speaker of the House

I certify that H.B. No. 1151 was passed by the House on May 5, 2009, by the following vote: Yeas 144, Nays 0, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 1151 on May 29, 2009, by the following vote: Yeas 141, Nays 0, 1 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 1151 was passed by the Senate, with amendments, on May 23, 2009, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor