

1-1 By: Campos, Garcia, Plesa H.B. No. 1972
1-2 (Senate Sponsor - Kolkhorst)
1-3 (In the Senate - Received from the House May 4, 2023;
1-4 May 5, 2023, read first time and referred to Committee on Health &
1-5 Human Services; May 19, 2023, reported adversely, with favorable
1-6 Committee Substitute by the following vote: Yeas 8, Nays 0;
1-7 May 19, 2023, sent to printer.)

1-8 COMMITTEE VOTE

		Yea	Nay	Absent	PNV
1-10	Kolkhorst	X			
1-11	Perry	X			
1-12	Blanco	X			
1-13	Hall	X			
1-14	Hancock	X			
1-15	Hughes	X			
1-16	LaMantia			X	
1-17	Miles	X			
1-18	Sparks	X			

1-19 COMMITTEE SUBSTITUTE FOR H.B. No. 1972 By: Kolkhorst

1-20 A BILL TO BE ENTITLED
1-21 AN ACT

1-22 relating to policies and procedures regarding children placed by
1-23 the Department of Family and Protective Services in a residential
1-24 treatment center or program.

1-25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-26 SECTION 1. Section 263.001(a), Family Code, is amended by
1-27 adding Subdivision (5) to read as follows:

1-28 (5) "Residential treatment center" means a general
1-29 residential operation licensed under Chapter 42, Human Resources
1-30 Code, that provides treatment services.

1-31 SECTION 2. Section 263.002, Family Code, is amended by
1-32 adding Subsections (e) and (f) to read as follows:

1-33 (e) If a child is placed in a residential treatment center,
1-34 or if a child is referred to and awaiting placement in a residential
1-35 treatment center, the court shall examine available evidence and
1-36 determine whether:

1-37 (1) the child's needs can be met through placement in a
1-38 family-like setting;

1-39 (2) the recommended or existing program can provide
1-40 the most effective and appropriate level of care for the child;

1-41 (3) the recommended or existing program is the least
1-42 restrictive setting consistent with the child's best interest and
1-43 individual needs; and

1-44 (4) the placement is consistent with the short-term
1-45 and long-term goals for the child, as specified by the child's
1-46 permanency plan.

1-47 (f) In making a determination under Subsection (e), the
1-48 court may consider:

1-49 (1) psychological or psychiatric assessments;
1-50 (2) the child's current treatment plan and progress
1-51 being made;

1-52 (3) any significant medical, legal, or behavioral
1-53 incidents involving the child;

1-54 (4) the reasons for the child's discharge from any
1-55 previous placement or the child's current placement;

1-56 (5) the programs available at the facility to address
1-57 the child's needs;

1-58 (6) the program's plan to discharge the child after
1-59 treatment; and

1-60 (7) whether there are other programs identified by the

2-1 child's caseworker that more effectively meet the child's needs.

2-2 SECTION 3. Section 263.202(b), Family Code, is amended to
2-3 read as follows:

2-4 (b) Except as otherwise provided by this subchapter, a
2-5 status hearing shall be limited to matters related to the contents
2-6 and execution of the service plan filed with the court. The court
2-7 shall review the service plan that the department filed under this
2-8 chapter for reasonableness, accuracy, and compliance with
2-9 requirements of court orders and make findings as to whether:

2-10 (1) a plan that has the goal of returning the child to
2-11 the child's parents adequately ensures that reasonable efforts are
2-12 made to enable the child's parents to provide a safe environment for
2-13 the child;

2-14 (2) the child's parents have reviewed and understand
2-15 the plan and have been advised that unless the parents are willing
2-16 and able to provide the child with a safe environment, even with the
2-17 assistance of a service plan, within the reasonable period of time
2-18 specified in the plan, the parents' parental and custodial duties
2-19 and rights may be subject to restriction or to termination under
2-20 this code or the child may not be returned to the parents;

2-21 (3) the plan is narrowly tailored to address any
2-22 specific issues identified by the department; [and]

2-23 (4) the child's parents and the representative of the
2-24 department have signed the plan;

2-25 (5) based on the court's determination under Section
2-26 263.002, continued placement is appropriate if the child is placed
2-27 in a residential treatment center; and

2-28 (6) based on the court's determination under Section
2-29 263.00201, continued placement is appropriate if the child is
2-30 placed in a qualified residential treatment program.

2-31 SECTION 4. Section 263.306(a-1), Family Code, is amended to
2-32 read as follows:

2-33 (a-1) At each permanency hearing before a final order is
2-34 rendered, the court shall:

2-35 (1) identify all persons and parties present at the
2-36 hearing;

2-37 (2) review the efforts of the department or other
2-38 agency in:

2-39 (A) locating and requesting service of citation
2-40 on all persons entitled to service of citation under Section
2-41 102.009; and

2-42 (B) obtaining the assistance of a parent in
2-43 providing information necessary to locate an absent parent, alleged
2-44 father, relative of the child, or other adult identified by the
2-45 child as a potential relative or designated caregiver;

2-46 (3) ask all parties present whether the child or the
2-47 child's family has a Native American heritage and identify any
2-48 Native American tribe with which the child may be associated;

2-49 (4) review the extent of the parties' compliance with
2-50 temporary orders and the service plan and the extent to which
2-51 progress has been made toward alleviating or mitigating the causes
2-52 necessitating the placement of the child in foster care;

2-53 (5) review the permanency progress report to
2-54 determine:

2-55 (A) the safety and well-being of the child and
2-56 whether the child's needs, including any medical or special needs,
2-57 are being adequately addressed;

2-58 (B) the continuing necessity and appropriateness
2-59 of the placement of the child, including with respect to a child who
2-60 has been placed outside of this state, whether the placement
2-61 continues to be in the best interest of the child;

2-62 (C) the appropriateness of the primary and
2-63 alternative permanency goals for the child developed in accordance
2-64 with department rule and whether the department has made reasonable
2-65 efforts to finalize the permanency plan, including the concurrent
2-66 permanency goals, in effect for the child;

2-67 (D) whether the child has been provided the
2-68 opportunity, in a developmentally appropriate manner, to express
2-69 the child's opinion on any medical care provided;

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

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

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

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

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

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

(I) for a child whose permanency goal is another planned permanent living arrangement:

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

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

(a) return home;

(b) be placed for adoption;

(c) be placed with a legal guardian;

or

(d) be placed with a fit and willing

relative; (iii) whether the department has conducted an independent living skills assessment under Section 264.121(a-3);

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

(v) if the youth is 16 years of age or older, whether there is evidence that the department has provided the youth with the documents and information listed in Section 264.121(e); and

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

(J) 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

(K) 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;

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

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

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

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

(a) At each permanency hearing after the court renders a

4-1 final order, the court shall:

4-2 (1) identify all persons and parties present at the
4-3 hearing;

4-4 (2) review the efforts of the department or other
4-5 agency in notifying persons entitled to notice under Section
4-6 [263.0021](#);

4-7 (3) for a child placed with a relative of the child or
4-8 other designated caregiver, review the efforts of the department to
4-9 inform the caregiver of:

4-10 (A) the option to become verified by a licensed
4-11 child-placing agency to operate an agency foster home, if
4-12 applicable; and

4-13 (B) the permanency care assistance program under
4-14 Subchapter [K](#), Chapter [264](#); and

4-15 (4) review the permanency progress report to
4-16 determine:

4-17 (A) the safety and well-being of the child and
4-18 whether the child's needs, including any medical or special needs,
4-19 are being adequately addressed;

4-20 (B) whether the child has been provided the
4-21 opportunity, in a developmentally appropriate manner, to identify
4-22 any adult, particularly an adult residing in the child's community,
4-23 who could be a relative or designated caregiver for the child;

4-24 (C) whether the department placed the child with
4-25 a relative or designated caregiver and the continuing necessity and
4-26 appropriateness of the placement of the child, including with
4-27 respect to a child who has been placed outside of this state,
4-28 whether the placement continues to be in the best interest of the
4-29 child;

4-30 (D) if the child is placed in institutional care,
4-31 whether efforts have been made to ensure that the child is placed in
4-32 the least restrictive environment consistent with the child's best
4-33 interest and special needs;

4-34 (E) the appropriateness of the primary and
4-35 alternative permanency goals for the child, whether the department
4-36 has made reasonable efforts to finalize the permanency plan,
4-37 including the concurrent permanency goals, in effect for the child,
4-38 and whether:

4-39 (i) the department has exercised due
4-40 diligence in attempting to place the child for adoption if parental
4-41 rights to the child have been terminated and the child is eligible
4-42 for adoption; or

4-43 (ii) another permanent placement,
4-44 including appointing a relative as permanent managing conservator
4-45 or returning the child to a parent, is appropriate for the child;

4-46 (F) for a child whose permanency goal is another
4-47 planned permanent living arrangement:

4-48 (i) the desired permanency outcome for the
4-49 child, by asking the child;

4-50 (ii) whether, as of the date of the hearing,
4-51 another planned permanent living arrangement is the best permanency
4-52 plan for the child and, if so, provide compelling reasons why it
4-53 continues to not be in the best interest of the child to:

4-54 (a) return home;
4-55 (b) be placed for adoption;
4-56 (c) be placed with a legal guardian;
4-57 or

4-58 (d) be placed with a fit and willing
4-59 relative;

4-60 (iii) whether the department has conducted
4-61 an independent living skills assessment under Section
4-62 [264.121\(a-3\)](#);

4-63 (iv) whether the department has addressed
4-64 the goals identified in the child's permanency plan, including the
4-65 child's housing plan, and the results of the independent living
4-66 skills assessment;

4-67 (v) if the youth is 16 years of age or
4-68 older, whether there is evidence that the department has provided
4-69 the youth with the documents and information listed in Section

5-1 264.121(e); and

5-2 (vi) if the youth is 18 years of age or
5-3 older or has had the disabilities of minority removed, whether
5-4 there is evidence that the department has provided the youth with
5-5 the documents and information listed in Section 264.121(e-1);

5-6 (G) if the child is 14 years of age or older,
5-7 whether services that are needed to assist the child in
5-8 transitioning from substitute care to independent living are
5-9 available in the child's community;

5-10 (H) whether the child is receiving appropriate
5-11 medical care and has been provided the opportunity, in a
5-12 developmentally appropriate manner, to express the child's opinion
5-13 on any medical care provided;

5-14 (I) for a child receiving psychotropic
5-15 medication, whether the child:

5-16 (i) has been provided appropriate
5-17 nonpharmacological interventions, therapies, or strategies to meet
5-18 the child's needs; or

5-19 (ii) has been seen by the prescribing
5-20 physician, physician assistant, or advanced practice nurse at least
5-21 once every 90 days;

5-22 (J) whether an education decision-maker for the
5-23 child has been identified, the child's education needs and goals
5-24 have been identified and addressed, and there are major changes in
5-25 the child's school performance or there have been serious
5-26 disciplinary events;

5-27 (K) for a child for whom the department has been
5-28 named managing conservator in a final order that does not include
5-29 termination of parental rights, whether to order the department to
5-30 provide services to a parent for not more than six months after the
5-31 date of the permanency hearing if:

5-32 (i) the child has not been placed with a
5-33 relative or other individual, including a foster parent, who is
5-34 seeking permanent managing conservatorship of the child; and

5-35 (ii) the court determines that further
5-36 efforts at reunification with a parent are:

5-37 (a) in the best interest of the child;
5-38 and

5-39 (b) likely to result in the child's
5-40 safe return to the child's parent; [and]

5-41 (L) whether the department has identified a
5-42 family or other caring adult who has made a permanent commitment to
5-43 the child;

5-44 (M) based on the court's determination under
5-45 Section 263.002, whether continued placement is appropriate if the
5-46 child is placed in a residential treatment center; and

5-47 (N) based on the court's determination under
5-48 Section 263.00201, whether continued placement is appropriate if
5-49 the child is placed in a qualified residential treatment program.

5-50 SECTION 6. This Act takes effect September 1, 2023.

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