

BILL ANALYSIS

C.S.H.B. 4168
By: Turner
Human Services
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties suggest that greater awareness is needed with regard to whether certain children in the conservatorship of the Department of Family and Protective Services are receiving independent living skills. C.S.H.B. 4168 seeks to provide for that awareness in applicable court hearings, among other provisions.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 4168 amends the Family Code to require the Department of Family and Protective Services (DFPS) to conduct an independent living skills assessment for all youth in the permanent managing conservatorship of DFPS who are at least 14 years of age but younger than 16 years of age and all youth in DFPS conservatorship who are 16 years of age or older. The bill requires DFPS to annually update the assessment for each such youth assessed to determine the independent living skills the youth learned during the preceding year to ensure that the DFPS obligation to prepare the youth for independent living has been met. The bill requires DFPS to conduct the annual update through the youth's plan of service in coordination with the youth, the youth's caseworker, the staff of the preparation for adult living program, and the youth's caregiver. The bill requires DFPS, in coordination with stakeholders, to develop a plan to standardize the curriculum for the preparation for adult living program that ensures that youth 14 years of age or older enrolled in the program receive relevant and age-appropriate information and training. The bill requires DFPS to report the plan to the legislature not later than December 1, 2018.

C.S.H.B. 4168 requires a court at each permanency hearing for a child under the care of DFPS held before a final order is rendered to ask all parties present whether the child or the child's family has a Native American heritage and identify any Native American tribe with which the child may be associated. The bill requires a court at such a hearing held before and after a final order is rendered to review the permanency progress report of a child whose permanency goal is another planned permanent living arrangement to determine whether DFPS has conducted an independent living skills assessment as required by the bill's provisions, whether DFPS 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, and whether there is evidence that DFPS has provided the youth with certain applicable required identification documents and

information. The bill requires a court in a suit filed by DFPS requesting termination of the parent-child relationship or requesting that DFPS be named conservator involving a child who is 14 years of age or older and whose permanency goal is another planned permanent living arrangement to verify that DFPS has conducted an independent living skills assessment under the bill's provisions, that DFPS 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, and, if the youth is 16 years of age or older or 18 years of age or older or has had the disabilities of minority removed, that there is evidence that DFPS has provided the youth with certain applicable required identification documents and information. The bill's provisions relating to actions a court must take apply to a suit affecting the parent-child relationship filed before, on, or after the bill's effective date.

C.S.H.B. 4168 conditions the requirement that DFPS implement the bill's provisions on the legislature appropriating money specifically for that purpose. The bill authorizes, but expressly does not require, DFPS to implement the bill's provisions using other appropriations available for that purpose if the legislature does not appropriate money specifically for that purpose.

EFFECTIVE DATE

September 1, 2017.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 4168 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

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

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

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

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

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

(B) obtaining the assistance of a parent in providing information necessary to locate an absent parent, alleged father, or relative of the child;

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

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

HOUSE COMMITTEE SUBSTITUTE

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

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

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

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

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

(B) obtaining the assistance of a parent in providing information necessary to locate an absent parent, alleged father, or relative of the child;

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

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

(5) [~~(4)~~] review the permanency progress report to determine:

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

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

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

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

(E) 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;

(F) 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;

(G) for a child 14 years of age or older:

(i)[-] 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

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

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

(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:

(5) [~~(4)~~] review the permanency progress report to determine:

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

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

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

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

(E) 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;

(F) 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;

(G) 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

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

(i) the desired permanency outcome for the child, by asking the child; [~~and~~]

(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);
- (iv) whether the department has addressed the goals identified in the child's permanency plan, including the child's housing plan, if applicable, and the results of the independent living skills assessment; and
- (v) whether if the child is 16 years of age or older, there is evidence that the department has provided the information and documentation listed in Section 264.121(e); and
- (vi) if the child is at least 18 years of age or has had the disabilities of minority removed, that the department has provided the information listed in Section 264.121 (e-1).

(6) [~~5~~] 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) [~~6~~] 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) [~~7~~] announce in open court the dismissal date and the date of any upcoming hearings.

SECTION 2. Subchapter E, Chapter 263, Family Code, is amended by adding Section 263.4041 to read as follows:

Sec. 263.4041. VERIFICATION OF TRANSITION PLAN BEFORE FINAL ORDER. Notwithstanding Section 263.401, for a suit involving a child who is 14 years of age or older and whose permanency goal is another planned permanent living arrangement, the court shall verify that:

(1) the department has conducted an independent living skills assessment for the child as provided under Section 264.121(a-3);

(2) the department has addressed the goals identified in the child's permanency plan, including the child's housing plan, if

- (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);
- (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);

(6) [~~5~~] 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) [~~6~~] 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) [~~7~~] announce in open court the dismissal date and the date of any upcoming hearings.

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Sec. 263.4041. VERIFICATION OF TRANSITION PLAN. Notwithstanding Section 263.401, for a suit involving a child who is 14 years of age or older and whose permanency goal is another planned permanent living arrangement, the court shall verify that:

(1) the department has conducted an independent living skills assessment for the child as provided under Section 264.121(a-3);

(2) the department has addressed the goals identified in the child's permanency plan, including the child's housing plan, and the

applicable, and the results of the independent living skills assessment;

(3) if the child is 16 years of age or older, there is evidence that the department has provided the child with the information and documentation in Section 264.121(e); and

(4) if the child is at least 18 years of age or has had the disabilities of minority removed, that the department has provided the information listed in Section 264.121(e-1).

SECTION 3. Section 263.5031, Family Code, is amended to read as follows:

Sec. 263.5031. PERMANENCY HEARINGS FOLLOWING FINAL ORDER. At each permanency hearing after the court renders a final order, the court shall:

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

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

(3) review the permanency progress report to determine:

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

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

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

(D) the appropriateness of the primary and alternative permanency goals for the child, whether the department has made reasonable efforts to finalize the permanency plan, including the concurrent permanency goals, in effect for the child, and whether:

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

results of the independent living skills assessment;

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

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

SECTION 3. Section 263.5031, Family Code, is amended to read as follows:

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

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(3) review the permanency progress report to determine:

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

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

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

(D) the appropriateness of the primary and alternative permanency goals for the child, whether the department has made reasonable efforts to finalize the permanency plan, including the concurrent permanency goals, in effect for the child, and whether:

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

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

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

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

(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);

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

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

(vi) whether, if the child is at least 18 years of age or has had the disabilities of minority removed, that the department has provided the information listed in Section 264.121(e-1).

(F) if the child is 14 years of age or older:

(i)[;] whether services that are needed to assist the child in transitioning from substitute care to independent living are available in the child's community

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

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

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

(i) the desired permanency outcome for the child, by asking the child; ~~[and]~~

(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;

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(iii) whether the department has conducted an independent living skills assessment under Section 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);

(F) if the child is 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;

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

(H) 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;

(I) 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 are major changes in the child's school performance or there have been serious disciplinary events;

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

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

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

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

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

(K) whether the department has identified a family or other caring adult who has made a permanent commitment to the child.

SECTION 4. Section 264.121, Family Code, is amended by adding Subsections (a-3) and (a-4) to read as follows:

(a-3) The department shall conduct an independent living skills assessment for all youth 14 years of age or older in the department's conservatorship.

The department shall annually update the assessment for each youth in the department's conservatorship, to determine the independent living skills the youth learned during the preceding year to ensure that the department's obligation to prepare the youth for independent living has been met.

(1) The annual update of the independent living skills assessment shall be conducted through the child's plan of service in coordination with the child, the caseworker, the Preparation for Adult Living staff and the child's caregiver.

(a-4) The department shall work with

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

(I) 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 are major changes in the child's school performance or there have been serious disciplinary events;

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

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

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

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

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

(K) whether the department has identified a family or other caring adult who has made a permanent commitment to the child.

SECTION 4. Section 264.121, Family Code, is amended by adding Subsections (a-3) and (a-4) to read as follows:

(a-3) The department shall conduct an independent living skills assessment for all youth in the department's permanent managing conservatorship who are at least 14 years of age but younger than 16 years of age and all youth in the department's conservatorship who are 16 years of age or older. The department shall annually update the assessment for each youth assessed under this section to determine the independent living skills the youth learned during the preceding year to ensure that the department's obligation to prepare the youth for independent living has been met.

The department shall conduct the annual update through the youth's plan of service in coordination with the youth, the youth's caseworker, the staff of the Preparation for Adult Living Program, and the youth's caregiver.

(a-4) The department, in coordination with

outside stakeholders to develop a plan to standardize the curriculum for the Preparation for Adult Living Program that ensures that youth 14 years of age or older enrolled in the program receive relevant and age-appropriate information and training. The department shall report the plan to the legislature not later than December 1, 2018.

SECTION 5. The changes in law made by this Act to Chapter 263, Family Code, apply to a suit affecting the parent-child relationship filed before, on, or after the effective date of this Act.

No equivalent provision.

SECTION 6. To the extent of any conflict, this Act prevails over another Act of the 85th Legislature, Regular Session, 2017, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 7. This Act takes effect September 1, 2017.

stakeholders, shall develop a plan to standardize the curriculum for the Preparation for Adult Living Program that ensures that youth 14 years of age or older enrolled in the program receive relevant and age-appropriate information and training. The department shall report the plan to the legislature not later than December 1, 2018.

SECTION 5. Same as introduced version.

SECTION 6. The Department of Family and Protective Services is required to implement this Act only if the legislature appropriates money specifically for that purpose. If the legislature does not appropriate money specifically for that purpose, the agency may, but is not required to, implement this Act using other appropriations available for the purpose.

SECTION 7. Same as introduced version.

SECTION 8. Same as introduced version.