

BILL ANALYSIS

Senate Research Center
81R18199 MCK-F

H.B. 704
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Health & Human Services
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Foster care is the child welfare system used when children need to be removed from their home due to abuse or neglect and there is no appropriate family member, relative, or family friend willing or able to care for them. Under these situations, a court will ask Child Protective Services to place the child in a temporary foster care setting until the child is able to either return to live with a parent or be adopted into a permanent family. Foster care is meant to be a temporary placement for children until a permanent home can be found, but when no other preferable option develops, a long-term foster placement can occur. When a child in long-term foster placement turns 18 years of age, the child is released from foster care, or "ages out."

H.B. 704 would give a young adult the permissive ability to request a court that had continuing, exclusive jurisdiction over the young adult on the day before that person's 18th birthday to render an order extending jurisdiction over the young adult. A "young adult" would be an individual between 18 and 21 years of age who was in the conservatorship of the Department of Family and Protective Services (DFPS) on the day of the individual's 18th birthday, and after the individual's 18th birthday, resided in foster care or received transitional living services from DFPS.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 263, Family Code, by adding Subchapter G, as follows:

SUBCHAPTER G. EXTENDED JURISDICTION AFTER CHILD'S 18TH BIRTHDAY

Sec. 263.601. DEFINITIONS. Defines "foster care," "guardianship services," "institution," and "young adult."

Sec. 263.602. EXTENDED JURISDICTION. (a) Authorizes a court that had continuing, exclusive jurisdiction over a young adult, at the young adult's request, to render an order that extends the court's jurisdiction over the young adult as provided by this subchapter.

(b) Provides that the extended jurisdiction of the court terminates on the earlier of the young adult's 21st birthday, or the date the young adult withdraws consent to the extension of the court's jurisdiction in writing or in court.

Sec. 263.603. EXTENDED JURISDICTION TO DETERMINE GUARDIANSHIP. (a) Authorizes the court, notwithstanding Section 263.602, if the court believes that a young adult is authorized to be incapacitated as defined by Section 601(14)(B) (relating to an alternative definition for "incapacitated person"), Texas Probate Code, to extend its jurisdiction on its own motion without the young adult's consent to allow the Department of Family and Protective Services (DFPS) to refer to the young adult to the Department of Aging and Disability Services (DADS) for guardianship as required by Section 48.209 (Referral for Guardianship Services), Human Resources Code.

(b) Provides that the extended jurisdiction of the court under this section terminates on the earliest of the date DADS determines guardianship is not appropriate under Chapter 161 (Department of Aging and Disability Services), Human Resources Code, a court with probate jurisdiction denies the application to appoint a guardian, or a guardian is appointed and qualifies under the Texas Probate Code.

(c) Authorizes the court under Subsection (a), if DADS determines a guardianship is not appropriate or the court with probate jurisdiction denies the application to appoint a guardian, to continue to extend its jurisdiction over the young adult only as provided by Section 263.602.

Sec. 263.604. GUARDIAN'S CONSENT TO EXTENDED JURISDICTION. (a) Authorizes a guardian appointed for a young adult to request that the court extend the court's jurisdiction over the young adult.

(b) Prohibits a court that extends its jurisdiction over a young adult for whom a guardian is appointed from issuing an order that conflicts with an order entered by the probate court that has jurisdiction over the guardianship proceeding.

Sec. 263.605. CONTINUED OR RENEWED APPOINTMENT OF ATTORNEY AD LITEM, GUARDIAN AD LITEM, OR VOLUNTEER ADVOCATE. Authorizes a court with extended jurisdiction under this subchapter to continue or renew the appointment of an attorney ad litem, guardian ad litem, or volunteer advocate for the young adult to assist the young adult in accessing services the young adult is entitled to receive from DADS or any other public or private service provider.

Sec. 263.606. DUTIES OF ATTORNEY OR GUARDIAN AD LITEM. Requires an attorney ad litem or guardian ad litem appointed for a young adult who receives services in the young adult's own home from a service provider or resides in an institution that is licensed, certified, or verified by a state agency other than DADS to assist the young adult as necessary to ensure that the young adult receives appropriate services from the service provider or institution, or the state agency that regulates the service provider or institution.

Sec. 263.607. PROHIBITED APPOINTMENTS AND ORDERS. (a) Prohibits the court from appointing DFPS or DADS as the managing conservator or guardian of a young adult.

(b) Prohibits the court from ordering DFPS to provide a service to a young adult unless DFPS is authorized to provide the service under state law, and is appropriated money to provide the service in an amount sufficient to comply with the court order and DFPS's obligations to other young adults for whom DFPS is required to provide similar services.

Sec. 263.608. RIGHTS OF YOUNG ADULT. Provides that a young adult who consents to the continued jurisdiction of the court has the same rights as any other adult of the same age.

Sec. 263.609. SERVICE REVIEW HEARINGS. (a) Authorizes the court, if the court's jurisdiction is extended under this subchapter for a young adult who remains in foster care, to hold periodic hearings to review services provided to the young adult.

(b) Authorize the court, at the request of a young adult who is receiving transitional living services from DFPS, to hold a hearing to review the services the young adult is receiving.

(c) Requires DFPS, before a review hearing scheduled under this section, to provide the court with a copy of the young adult's plan of service, and the voluntary foster care agreement if the young adult is in foster care or the transition plan if the young adult is receiving transitional living services from DFPS.

(d) Requires the court to review the plan of service and voluntary foster care agreement or transition plan, as applicable, and determine whether DFPS and any service provider under contract with DFPS is providing the appropriate services as provided in the plan or agreement.

(e) Authorizes the court, if the court believes that the young adult is entitled to additional services under DFPS rules or policies or under a contract with a service provider, to order DFPS to take appropriate action to ensure that the young adult receives the additional services to which the young adult is entitled.

SECTION 2. Effective date: upon passage or September 1, 2009.