

BILL ANALYSIS

Senate Research Center
84R16456 MK-D

C.S.S.B. 314
By: West
State Affairs
3/16/2015
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Section 1711.8 of the Child Protective Services (CPS) handbook indicates that CPS should explain the impact of taking permanent managing conservatorship (PMC) on benefits, but relatives regularly report that they were not aware of the consequences of taking PMC.

C.S.S.B. 314 addresses this by requiring the Department of Family and Protective Services, when a court appoints a nonparent as managing conservator of a child, to provide the nonparent with an explanation of the differences between appointment as managing conservator and adoption. That explanation shall include the following statements:

- appointment as conservator conveys the rights specified by the court or applicable law, rather than the complete rights of a parent that are conveyed via adoption;
- a parent may still request visitation, or even appointment as managing conservator, from the court; and
- appointment will not result in eligibility for postadoption benefits.

Additionally, the bill will require that the court order appointing the nonparent as managing conservator include the following:

- reference to the rights and duties conveyed under existing Section 153.371 (Rights and Duties of Nonparent Appointed as Sole Managing Conservator) of the Family Code (e.g., rights to direct religious training and consent to medical care and duties to feed and clothe); and
- provisions addressing the authority of the nonparent to:
 - authorize immunizations;
 - obtain health and auto insurance;
 - enroll the child in day-care or preschool;
 - okay participation in extracurricular activities;
 - authorize getting a driver's license or ID;
 - authorize the child's employment; and
 - apply for benefits or obtain legal services for the child; and
- any other provisions the court deems necessary.

In issuing the order, the court must have evidence that the nonparent was advised of these rights and duties.

C.S.S.B. 314 amends current law relating to appointment of a nonparent as managing conservator of a child.

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 Subchapter E, Chapter 263, Family Code, by adding Section 263.408, as follows:

Sec. 263.408. REQUIREMENTS FOR APPOINTMENT OF NONPARENT AS MANAGING CONSERVATOR. (a) Provides that, in a suit in which the court appoints a nonparent as managing conservator of a child:

(1) the Department of Family and Protective Services (department) must provide the nonparent with an explanation of the differences between appointment as a managing conservator of a child and adoption of a child, including specific statements informing the nonparent that:

(A) the nonparent's appointment conveys only the rights specified by the court order or applicable laws instead of the complete rights of a parent conveyed by adoption;

(B) a parent may be entitled to request visitation with the child or petition the court to appoint the parent as the child's managing conservator, notwithstanding the nonparent's appointment as managing conservator; and

(C) the nonparent's appointment as the child's managing conservator will not result in the eligibility of the nonparent and child for postadoption benefits; and

(2) in addition to the rights and duties provided under Section 153.371, the court order appointing the nonparent as managing conservator is required to include provisions that address the authority of the nonparent to:

(A) authorize immunization of the child or any other medical treatment that requires parental consent;

(B) obtain and maintain health insurance coverage for the child and automobile insurance coverage for the child, if appropriate;

(C) enroll the child in a day-care program or preschool, including pre-kindergarten;

(D) authorize the child to participate in school-related or extracurricular or social activities, including athletic activities;

(E) authorize the child to obtain a learner's permit, driver's license, or state-issued identification card;

(F) authorize employment of the child;

(G) apply for and receive public benefits for or on behalf of the child; and

(H) obtain legal services for the child and execute contracts or other legal documents for the child.

(b) Requires the court to require evidence that the nonparent was informed of the rights and duties of a nonparent appointed as managing conservator of a child before the court renders an order appointing the nonparent as managing conservator of a child.

SECTION 2. Provides that Section 263.408, Family Code, as added by this Act, applies to a suit affecting the parent-child relationship that is pending in a trial court on or filed on or after the effective date of this Act.

SECTION 3. Effective date: September 1, 2015.