

By: Dukes

H.B. No. 3530

A BILL TO BE ENTITLED

AN ACT

relating to encouraging age-appropriate normalcy activities for children in the managing conservatorship of the state.

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

SECTION 1. Section 263.001(a), Family Code, is amended by amending Subdivision (1-a) and adding Subdivision (1-b) to read as follows:

(1-a) "Age-appropriate normalcy activity" has the meaning assigned by Section 264.001.

(1-b) "Department" means the Department of Family and Protective Services.

SECTION 2. Section 263.306, Family Code, is amended by adding Subsection (c) to read as follows:

(c) In addition to the requirements of Subsection (a), at each permanency hearing the court shall review the department's efforts to ensure that the child has regular, ongoing opportunities to engage in age-appropriate normalcy activities, including activities not listed in the child's service plan.

SECTION 3. Section 263.503, Family Code, is amended by adding Subsection (c) to read as follows:

(c) In addition to the requirements of Subsection (a), at each placement review hearing the court shall review the department's efforts to ensure that the child has regular, ongoing opportunities to engage in age-appropriate normalcy activities,

1 including activities not listed in the child's service plan.

2 SECTION 4. Section 264.001, Family Code, is amended by  
3 amending Subdivision (1) and adding Subdivisions (1-a) and (5) to  
4 read as follows:

5 (1) "Age-appropriate normalcy activity" means an  
6 activity or experience:

7 (A) that is generally accepted as suitable for a  
8 child's age or level of maturity or that is determined to be  
9 developmentally appropriate for a child based on the development of  
10 cognitive, emotional, physical, and behavioral capacities that are  
11 typical for the age or age group; and

12 (B) in which a child who is not in the  
13 conservatorship of the state is generally allowed to participate,  
14 including extracurricular activities, in-school and out-of-school  
15 social activities, cultural and enrichment activities, and  
16 employment opportunities.

17 (1-a) "Department" means the Department of Family and  
18 Protective Services.

19 (5) "Standard of care of a reasonable and prudent  
20 parent" means the standard of care that a parent of reasonable  
21 judgment, skill, and caution would exercise in addressing the  
22 health, safety, and welfare of a child while encouraging the  
23 emotional and developmental growth of the child, taking into  
24 consideration:

25 (A) the overall health and safety of the child;

26 (B) the child's age, maturity, and development  
27 level;

1                   (C) the best interest of the child based on the  
2 caregiver's knowledge of the child;

3                   (D) the appropriateness of a proposed activity  
4 and any potential risk factors;

5                   (E) the behavioral history of the child and the  
6 child's ability to safely participate in a proposed activity;

7                   (F) the importance of encouraging the child's  
8 social, emotional, and developmental growth; and

9                   (G) the importance of providing the child with  
10 the most family-like living experience possible.

11           SECTION 5. The heading to Section 264.114, Family Code, is  
12 amended to read as follows:

13           Sec. 264.114. IMMUNITY FROM LIABILITY; ADVERSE  
14 DEPARTMENTAL ACTION PROHIBITED.

15           SECTION 6. Section 264.114, Family Code, is amended by  
16 adding Subsections (c) and (d) to read as follows:

17           (c) A foster parent, other substitute caregiver, family  
18 relative or other designated caregiver, or licensed child placing  
19 agency caring for a child in the managing conservatorship of the  
20 department is not liable for harm caused to the child resulting from  
21 the child's participation in an age-appropriate normalcy activity  
22 approved by the caregiver if, in approving the child's  
23 participation in the activity, the caregiver exercised the standard  
24 of care of a reasonable and prudent parent.

25           (d) A licensed child placing agency is not subject to  
26 adverse action by the department, including contractual action or  
27 licensing or other regulatory action, arising out of the conduct of

1 a foster parent who has exercised the standard of care of a  
2 reasonable and prudent parent.

3 SECTION 7. Subchapter B, Chapter 264, Family Code, is  
4 amended by adding Section 264.125 to read as follows:

5 Sec. 264.125. AGE-APPROPRIATE NORMALCY ACTIVITIES;  
6 STANDARD OF CARE. (a) The department shall use its best efforts to  
7 normalize the lives of children in the managing conservatorship of  
8 the department by allowing substitute caregivers, without the  
9 department's prior approval, to make decisions similar to those a  
10 parent would be entitled to make regarding a child's participation  
11 in age-appropriate normalcy activities.

12 (b) In determining whether to allow a child in the managing  
13 conservatorship of the department to participate in an activity, a  
14 substitute caregiver must exercise the standard of care of a  
15 reasonable and prudent parent.

16 (c) The department shall adopt and implement policies  
17 consistent with this section promoting a substitute caregiver's  
18 ability to make decisions described by Subsection (a). The  
19 department shall identify and review any departmental policy or  
20 procedure that may impede a substitute caregiver's ability to make  
21 such decisions.

22 (d) The department shall require licensed child placing  
23 agency personnel, residential child care licensing staff,  
24 conservatorship caseworkers, and other persons as may be determined  
25 by the department to complete a course of training regarding:

26 (1) the importance of a child's participation in  
27 age-appropriate normalcy activities and the benefits of such

1 activities to a child's well-being, mental health, and social,  
2 emotional, and developmental growth; and

3 (2) substitute caregiver decision-making under the  
4 standard of care of a reasonable and prudent parent.

5 SECTION 8. The changes in law made by this Act to Sections  
6 263.306 and 263.503, Family Code, apply only to a permanency  
7 hearing or a placement review hearing conducted under Chapter 263,  
8 Family Code, on or after the effective date of this Act. A  
9 permanency hearing or a placement review hearing conducted before  
10 the effective date of this Act is governed by the law in effect on  
11 the date the hearing was conducted, and the former law is continued  
12 in effect for that purpose.

13 SECTION 9. This Act takes effect September 1, 2015.