

By: Davis of Harris

H.B. No. 4048

A BILL TO BE ENTITLED

AN ACT

relating to mental health assessments and evaluations of children
in foster care.

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

SECTION 1. Section 107.002, Family Code, is amended by
adding Subsection (b-2) to read as follows:

(b-2) In addition to the duties required by Subsection (b),
a guardian ad litem appointed for a child in a proceeding under
Chapter 262 or 263 shall review all mental health assessments and
evaluations conducted for the child at the request of any party to
the suit.

SECTION 2. Section 107.003, Family Code, is amended by
adding Subsection (c) to read as follows:

(c) In addition to the duties required by Subsection (a), an
attorney ad litem appointed for a child in a proceeding under
Chapter 262 or 263 shall review all mental health assessments and
evaluations conducted for the child at the request of any party to
the suit.

SECTION 3. Section 263.306(a), Family Code, as amended by
Chapters 191 (S.B. 352), 204 (H.B. 915), and 688 (H.B. 2619), Acts
of the 83rd Legislature, Regular Session, 2013, is reenacted and
amended to read as follows:

(a) At each permanency hearing the court shall:

(1) identify all persons or parties present at the

1 hearing or those given notice but failing to appear;

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

4 (A) attempting to locate all necessary persons;

5 (B) requesting service of citation; and

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

9 (3) review the efforts of each custodial parent,
10 alleged father, or relative of the child before the court in
11 providing information necessary to locate another absent parent,
12 alleged father, or relative of the child;

13 (4) review any visitation plan or amended plan
14 required under Section 263.107 and render any orders for visitation
15 the court determines necessary;

16 (5) return the child to the parent or parents if the
17 child's parent or parents are willing and able to provide the child
18 with a safe environment and the return of the child is in the
19 child's best interest;

20 (6) place the child with a person or entity, other than
21 a parent, entitled to service under Chapter 102 if the person or
22 entity is willing and able to provide the child with a safe
23 environment and the placement of the child is in the child's best
24 interest;

25 (7) evaluate the department's efforts to identify
26 relatives who could provide the child with a safe environment, if
27 the child is not returned to a parent or another person or entity

entitled to service under Chapter 102;

(8) evaluate the parties' compliance with temporary orders and the service plan;

(9) identify an education decision-maker for the child if one has not previously been identified;

(10) review the medical care provided to the child as required by Section 266.007;

(11) review all mental health assessments and evaluations conducted for the child at the request of any party to the hearing;

(12) ~~[(9)]~~ ensure the child has been provided the opportunity, in a developmentally appropriate manner, to express the child's opinion on the medical care provided;

(13) ~~[(10)]~~ for a child receiving psychotropic medication, determine whether the child:

(A) has been provided appropriate psychosocial therapies, behavior strategies, and other non-pharmacological interventions; and

(B) has been seen by the prescribing physician, physician assistant, or advanced practice nurse at least once every 90 days for purposes of the review required by Section 266.011;

(14) ~~[(11)]~~ determine whether:

(A) the child continues to need substitute care;

(B) the child's current placement is appropriate for meeting the child's needs, including with respect to a child who has been placed outside of the state, whether that placement continues to be in the best interest of the child; and

(C) other plans or services are needed to meet the child's special needs or circumstances;

(15) [~~(12)~~] if the child is placed in institutional care, determine whether efforts have been made to ensure placement of the child in the least restrictive environment consistent with the best interest and special needs of the child;

(16) [~~(13)~~] if the child is 16 years of age or older, order services that are needed to assist the child in making the transition from substitute care to independent living if the services are available in the community;

(17) [~~(14)~~] determine plans, services, and further temporary orders necessary to ensure that a final order is rendered before the date for dismissal of the suit under this chapter;

(18) [~~(15)~~] if the child is committed to the Texas Juvenile Justice Department or released under supervision by the Texas Juvenile Justice Department, determine whether the child's needs for treatment, rehabilitation, and education are being met; and

(19) [~~(16)~~] determine the date for dismissal of the suit under this chapter and give notice in open court to all parties of:

(A) the dismissal date;

(B) the date of the next permanency hearing; and

(C) the date the suit is set for trial.

SECTION 4. Section [263.503\(a\)](#), Family Code, as amended by Chapters 204 (H.B. 915) and 688 (H.B. 2619), Acts of the 83rd Legislature, Regular Session, 2013, is reenacted and amended to

1 read as follows:

2 (a) At each placement review hearing, the court shall
3 determine whether:

4 (1) the child's current placement is necessary, safe,
5 and appropriate for meeting the child's needs, including with
6 respect to a child placed outside of the state, whether the
7 placement continues to be appropriate and in the best interest of
8 the child;

9 (2) efforts have been made to ensure placement of the
10 child in the least restrictive environment consistent with the best
11 interest and special needs of the child if the child is placed in
12 institutional care;

13 (3) the services that are needed to assist a child who
14 is at least 16 years of age in making the transition from substitute
15 care to independent living are available in the community;

16 (4) the child has received any mental health
17 assessment or evaluation at the request of any party to the hearing
18 that the court has not reviewed and shall review;

19 (5) the child is receiving appropriate medical care;

20 (6) ~~(5)~~ the child has been provided the opportunity,
21 in a developmentally appropriate manner, to express the child's
22 opinion on the medical care provided;

23 (7) ~~(6)~~ a child who is receiving psychotropic
24 medication:

25 (A) has been provided appropriate psychosocial
26 therapies, behavior strategies, and other non-pharmacological
27 interventions; and

(B) has been seen by the prescribing physician, physician assistant, or advanced practice nurse at least once every 90 days for purposes of the review required by Section 266.011;

(8) ~~[(7)]~~ other plans or services are needed to meet the child's special needs or circumstances;

(9) ~~[(8)]~~ the department or authorized agency 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;

(10) ~~[(9)]~~ for a child for whom the department has been named managing conservator in a final order that does not include termination of parental rights, a permanent placement, including appointing a relative as permanent managing conservator or returning the child to a parent, is appropriate for the child;

(11) ~~[(10)]~~ for a child whose permanency goal is another planned, permanent living arrangement, the department has:

(A) documented a compelling reason why adoption, permanent managing conservatorship with a relative or other suitable individual, or returning the child to a parent is not in the child's best interest; and

(B) identified a family or other caring adult who has made a permanent commitment to the child;

(12) ~~[(11)]~~ the department or authorized agency has made reasonable efforts to finalize the permanency plan that is in effect for the child; ~~and~~

(13) ~~[(12)]~~ if the child is committed to the Texas Juvenile Justice Department or released under supervision by the

1 Texas Juvenile Justice Department, the child's needs for treatment,
2 rehabilitation, and education are being met;

3 (14) [~~(10)~~] an education decision-maker for the child
4 has been identified; and

5 (15) [~~(11)~~] the child's education needs and goals have
6 been identified and addressed.

7 SECTION 5. Section 266.007(a), Family Code, is amended to
8 read as follows:

9 (a) At each hearing under Chapter 263, or more frequently if
10 ordered by the court, the court shall review a summary of the
11 medical care provided to the foster child since the last hearing.
12 The summary must include information regarding:

13 (1) the nature of any emergency medical care provided
14 to the child and the circumstances necessitating emergency medical
15 care, including any injury or acute illness suffered by the child;

16 (2) all mental health assessments and evaluations
17 conducted for the child at the request of any party to the hearing;

18 (3) all medical and mental health treatment that the
19 child is receiving and the child's progress with the treatment;

20 (4) [~~(3)~~] any medication prescribed for the child, the
21 condition, diagnosis, and symptoms for which the medication was
22 prescribed, and the child's progress with the medication;

23 (5) [~~(4)~~] for a child receiving a psychotropic
24 medication:

25 (A) any psychosocial therapies, behavior
26 strategies, or other non-pharmacological interventions that have
27 been provided to the child; and

1 (B) the dates since the previous hearing of any
2 office visits the child had with the prescribing physician,
3 physician assistant, or advanced practice nurse as required by
4 Section 266.011;

5 (6) [~~(5)~~] the degree to which the child or foster care
6 provider has complied or failed to comply with any plan of medical
7 treatment for the child;

8 (7) [~~(6)~~] any adverse reaction to or side effects of
9 any medical treatment provided to the child;

10 (8) [~~(7)~~] any specific medical condition of the child
11 that has been diagnosed or for which tests are being conducted to
12 make a diagnosis;

13 (9) [~~(8)~~] any activity that the child should avoid or
14 should engage in that might affect the effectiveness of the
15 treatment, including physical activities, other medications, and
16 diet; and

17 (10) [~~(9)~~] other information required by department
18 rule or by the court.

19 SECTION 6. The changes in law made by this Act apply to a
20 suit affecting the parent-child relationship pending in a trial
21 court on or filed on or after the effective date of this Act.

22 SECTION 7. This Act takes effect September 1, 2015.