

BILL ANALYSIS

C.S.H.B. 7
By: Wu
Human Services
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties have expressed concerns regarding the length and complexity of certain judicial proceedings involving a child and the child protective services division of the Department of Family and Protective Services. C.S.H.B. 7 seeks to improve the process and procedures for handling such cases.

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 rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 12 of this bill and to the Supreme Court of Texas in SECTION 22 of this bill.

ANALYSIS

C.S.H.B. 7 amends the Family Code to require the Department of Family and Protective Services (DFPS) and the Texas Juvenile Justice Department to coordinate and develop protocols for sharing with each other, on request and in addition to information relating to a multi-system youth's personal health information or history of governmental services provided to the multi-system youth, any information relating to a multi-system youth necessary to identify and coordinate the provision of services to the youth and prevent duplication of services, enhance rehabilitation of the youth, and improve and maintain community safety. The bill adds a temporary provision set to expire September 1, 2019, to require DFPS, in collaboration with interested parties, to review the form of jury submissions in Texas and make recommendations to the legislature not later than December 31, 2017, regarding whether broad-form or specific jury questions should be required in suits affecting the parent-child relationship filed by DFPS.

C.S.H.B. 7 prohibits a court from ordering a parent of a child to make periodic payments for the support of the child while a suit filed by DFPS to be named managing conservator of the child is pending, with certain exceptions. The bill replaces the authorization for a court to order either or both parents to make periodic payments for the support of a child in a proceeding in which DFPS is named temporary managing conservator with the authorization for a court to make such an order in a proceeding in which DFPS is named managing conservator unless the court has determined a parent is indigent. The bill removes the requirement that the court, in a proceeding in which DFPS is named permanent managing conservator of a child whose parents' rights have not been terminated, order each parent that is financially able to make periodic payments for the support of the child.

C.S.H.B. 7 conditions the transfer of a suit by a governmental entity to protect the health and safety of a child to the court with continuing, exclusive jurisdiction in connection with the child,

if any, by a court that rendered a temporary order in the suit on that court finding that the transfer is necessary for the convenience of the parties and is in the best interest of the child. The bill removes the condition on the option for the court that rendered the temporary order to order transfer of the suit from the court of continuing, exclusive jurisdiction that grounds exist for mandatory transfer from the court of continuing, exclusive jurisdiction. The bill requires a court of continuing, exclusive jurisdiction, on receiving notice that a court exercising jurisdiction in a suit by a governmental entity to protect the health and safety of a child has ordered the transfer of the suit from the court of continuing, exclusive jurisdiction, to transfer the proceedings pursuant to certain procedural requirements to the court in which the suit by the governmental entity is pending. The bill replaces the authorization for a party to file a transfer order that has been signed by a court exercising jurisdiction in a suit by a governmental entity to protect the health and safety of a child with the clerk of the court of continuing, exclusive jurisdiction with a requirement that DFPS file such a transfer order with the clerk of the court of continuing, exclusive jurisdiction. The bill specifies that the duty of the clerk of the court of continuing, exclusive jurisdiction to transfer the files applies without further order from the court of continuing, exclusive jurisdiction.

C.S.H.B. 7 prohibits a court from ordering termination of the parent-child relationship, and making the required finding supporting the termination of the parent-child relationship, based on evidence that the parent homeschooled the child, is economically disadvantaged, engaged in reasonable discipline of the child, or has been charged with a nonviolent misdemeanor offense, other than an offense against the person or the family or an offense that involves family violence. The bill authorizes a court to order termination of the parent-child relationship for a parent of a child in a suit filed by DFPS seeking such termination for more than one parent of the child only if the court finds by clear and convincing evidence grounds for the termination of the parent-child relationship for that parent.

C.S.H.B. 7 authorizes DFPS to file an application for a protective order for a child's protection on the initiative of DFPS or jointly with the child's parent, relative, or caregiver who requests the filing if DFPS has temporary managing conservatorship of the child, makes certain determinations regarding abuse or neglect of the child and regarding the existence of certain threats, and is not otherwise authorized to apply for a protective order for the child's protection under statutory provisions relating to an application for a protective order with regard to family violence. The bill requires DFPS, in making such an application, to certify that DFPS has diligently searched for and was unable to locate the child's parent, legal guardian, or custodian, other than the respondent to the application, or located and provided notice of the proposed application to the child's parent, legal guardian, or custodian, other than the respondent to the application, and, if applicable, to certify that the relative or caregiver who is jointly filing the petition or with whom the child would reside following an entry of the protective order has not abused or neglected the child and does not have a history of abuse or neglect. The bill authorizes the filing of an application for a temporary ex parte order without the certification of such findings if DFPS certifies that it believes there is an immediate danger of abuse or neglect to the child. The bill authorizes a court to enter a temporary ex parte order for the protection of the child, without further notice to the respondent and without a hearing, if the court finds from the information contained in the protective order application that there is an immediate danger of abuse or neglect to the child. The bill sets out the court procedures and findings required for issuance of a protective order. The bill applies statutory provisions relating to protective orders and family violence to a protective order issued under the bill's provisions to the extent applicable, except as otherwise provided by the bill.

C.S.H.B. 7 requires a court, at each hearing conducted under statutory provisions relating to a suit by a governmental entity to protect the health and safety of a child, to review the placement of each child in the temporary or permanent managing conservatorship of DFPS who is not placed with a relative caregiver or designated caregiver. The bill requires the court to include in its findings a statement on whether DFPS has the option of placing the child with a relative or other designated caregiver.

C.S.H.B. 7 establishes that, in a suit affecting the parent-child relationship filed by DFPS, the existence of a parent's voluntary agreement to temporarily place the parent's child in the managing conservatorship of DFPS is not an admission by the parent that the parent engaged in conduct that endangered the child. The bill requires DFPS, on the request of the attorney for a parent who is a party in a suit affecting the parent-child relationship filed by a governmental entity to protect the health and safety of the child or the attorney ad litem for the parent's child and before the full adversary hearing, to provide the name of any person, excluding a DFPS employee, who DFPS will call as a witness to any of the allegations contained in the petition filed by DFPS, a copy of any offense report relating to the allegations contained in the petition filed by DFPS that will be used in court to refresh a witness's memory, and a copy of any photograph, video, or recording that will be presented as evidence.

C.S.H.B. 7 revises the facts that must be sufficiently stated in a sworn affidavit to support an original suit filed by a governmental entity that requests to take possession of a child after notice and a hearing. The bill prohibits DFPS from taking possession of a child to protect the child's health and safety based solely on evidence that the parent homeschooled the child, is economically disadvantaged, engaged in reasonable discipline of the child, or has been charged with a nonviolent misdemeanor offense, other than an offense against the person or the family or an offense that involves family violence. The bill requires DFPS to train child protective services caseworkers regarding such limits on removal and authorizes the executive commissioner of the Health and Human Services Commission (HHSC) to adopt rules to implement the bill's provisions relating to these limits on removal.

C.S.H.B. 7 authorizes a court, if a parent who is not indigent appears in opposition to a suit filed by a governmental entity involving a child who is in the possession of the governmental entity, to postpone, for good cause shown, the full adversary hearing in the suit for not more than seven days from the date of the parent's appearance to allow the parent to hire an attorney or to provide the parent's attorney time to respond to the petition and prepare for the hearing. The bill subjects such a postponement to certain limits and requirements. The bill prohibits a hearing held by a court in a suit by a governmental entity to protect the health and safety of a child from being ex parte, unless otherwise authorized by provisions relating to such suits or other law. The bill requires a court, at each hearing conducted under statutory provisions relating to the placement review of a child under DFPS care, to review the placement of each child in the temporary or permanent managing conservatorship of DFPS who is not placed with a relative caregiver or designated caregiver and requires the court to include in its findings a statement whether DFPS placed the child with a relative or other designated caregiver.

C.S.H.B. 7 requires notice of a placement review hearing for a child under DFPS care provided to the foster parent, preadoptive parent, relative of the child providing care, or director or director's designee of the group home or general residential operation where the child is residing to state that the individual may, but is not required to, attend the hearing and may request to be heard at the hearing. The bill revises the specified statement required to be included in a service plan filed by DFPS after a court renders a temporary order appointing DFPS as temporary managing conservator of a child in a child protection suit, prohibits the service plan from including an allegation of abuse or neglect of the child or a restatement of the facts of the case, and makes such an allegation or restatement in the service plan inadmissible in the court as evidence. The bill requires DFPS, not later than the fifth business day after a full adversary hearing for a child who was taken into possession by a governmental entity to protect the health and safety of the child, to make all referrals necessary for each parent to comply with a judge's order for services and provide to the parents any information available to DFPS on providers approved by DFPS to provide services in the service area in which the parent resides. The bill includes among the determinations a court must make at each permanency hearing before a final order and following a final order a determination as to whether DFPS has placed the child that is the subject of the hearing with a relative or other designated caregiver.

C.S.H.B. 7 provides for the termination of a court's jurisdiction over a suit affecting the parent-child relationship that requests termination of that relationship or requests that DFPS be named conservator of the child and the automatic dismissal without a court order of such a suit on the first Monday after the first anniversary of the date the court rendered a temporary order appointing DFPS as temporary managing conservator of the child unless the court has commenced the trial on the merits or granted an extension under applicable circumstances. The bill also provides for jurisdiction termination and automatic dismissal without a court order if the court grants an extension but does not commence the trial on the merits before the new dismissal date scheduled by the court.

C.S.H.B. 7 gives the court in a child protection suit the option, for purposes of the authorization of a court to retain jurisdiction and not dismiss the suit or render a final order, of rendering a temporary order that, among other criteria, orders DFPS to transition the child, according to a schedule determined by DFPS or the court, from substitute care to the parent while the parent completes the remaining requirements imposed under a service plan and specified in the temporary order that are necessary for the child's return. The bill requires a court that renders a temporary order terminating such a transition order to schedule a new dismissal date for the suit at the time of the order. The bill authorizes DFPS to request the court to retain jurisdiction for an additional six months as necessary for a parent to complete the remaining requirements in a service plan and specified in the temporary order that are mandatory for the child's return.

C.S.H.B. 7 requires the Supreme Court of Texas to establish by rule civil and appellate procedures to address conflicts between the filing of a motion for a new trial and the filing of an appeal of a final order rendered under statutory provisions relating to a placement review of a child under DFPS care and to address the period, including an extension of at least 20 days, for a court reporter to submit the reporter's record of a trial to an appellate court following such a final order.

C.S.H.B. 7 requires DFPS, as soon as possible after DFPS becomes aware of a change in placement of a child in DFPS conservatorship, to give notice of the placement change to the managed care organization that contracts with HHSC to provide health care services to the child under the STAR Health program. The bill requires the organization, in coordination with DFPS, to give notice of the placement change to the primary care physician listed in the child's health passport. The bill requires DFPS, as soon as possible but not later than the fifth day after the date a child-placing agency notifies DFPS of the agency's intent to change the placement of a child in DFPS conservatorship, to give notice of the impending placement change and the reason given for the placement change to the child's parent; an attorney ad litem, a guardian ad litem, and a volunteer advocate appointed for the child; a foster parent, prospective adoptive parent, relative of the child providing care to the child, or director of the group home or general residential operation where the child is residing; and any other person determined by a court to have an interest in the child's welfare. The bill requires DFPS, as soon as possible but not later than the fifth day after the date a foster parent requests the removal of a child in DFPS conservatorship from the foster home, to give notice of the impending placement change to the child's parent; an attorney ad litem, a guardian ad litem, and a volunteer advocate appointed for the child; the licensed administrator of the child-placing agency responsible for placing the child or the licensed administrator's designee; and any other person determined by a court to have an interest in the child's welfare.

C.S.H.B. 7 requires DFPS to conduct an independent living skills assessment for all youth 14 years of age or older in DFPS conservatorship and to annually update the assessment for each youth in DFPS conservatorship for specified purposes. The bill requires the annual update to be conducted through the child's plan of service in coordination with the child, the caseworker, the preparation for adult living program staff, and the child's caregiver. The bill requires DFPS to work with interested parties to develop a plan to standardize the curriculum for the preparation for adult living program that ensures 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. These bill provisions expire September 1, 2019.

C.S.H.B. 7 prohibits a court from rendering an order requiring or prohibiting medical care, including mental health care, for a child in DFPS conservatorship unless the court finds that a medical or mental health professional, as appropriate, has been consulted regarding the proposed or prohibited care and the medical or mental health professional has confirmed in writing that the medical or mental health treatment is medically necessary or, for an order prohibiting specific medical care, that the prohibition would not prevent the child from receiving medically necessary care. The bill excludes from this prohibition a court order for emergency medical care, including mental health care, for a child in DFPS conservatorship.

C.S.H.B. 7 amends the Government Code to require a contract between a managed care organization and HHSC for the organization to provide health care services to recipients under the STAR Health program to require the organization to ensure continuity of care for a child whose placement has changed by notifying each specialist treating the child of the placement change and by coordinating the transition of care from the child's previous treating primary care physician and treating specialists to the child's new treating primary care physician and treating specialists, if any.

C.S.H.B. 7 amends the Human Resources Code to require a general residential operation that provides mental health treatment or services to a child in the managing conservatorship of DFPS to timely submit to the court in a suit affecting the parent-child relationship all information requested by that court.

C.S.H.B. 7 amends the Penal Code to make statutory provisions establishing the conduct that constitutes an offense relating to a violation of certain court orders or conditions of bond in a family violence, sexual assault or abuse, stalking, or trafficking case applicable to a protective order issued in certain cases of abuse or neglect under the bill's protective order provisions.

C.S.H.B. 7 applies only to a service plan filed for a full adversary hearing or a status hearing held on or after January 1, 2018.

EFFECTIVE DATE

September 1, 2017.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 7 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

No equivalent provision.

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 58.0052, Family Code, is amended by adding Subsection (b-1) to read as follows:

(b-1) In addition to the information provided under Subsection (b), the Department of Family and Protective Services and the Texas Juvenile Justice Department shall coordinate and develop protocols for sharing with each other, on request, any other information relating to a

multi-system youth necessary to:
(1) identify and coordinate the provision of services to the youth and prevent duplication of services;
(2) enhance rehabilitation of the youth; and
(3) improve and maintain community safety.

No equivalent provision.

SECTION 2. Section 105.002, Family Code, is amended by adding Subsection (d) to read as follows:

(d) The Department of Family and Protective Services in collaboration with interested parties, including the Permanent Judicial Commission for Children, Youth and Families, shall review the form of jury submissions in this state and make recommendations to the legislature not later than December 31, 2017, regarding whether broad-form or specific jury questions should be required in suits affecting the parent-child relationship filed by the department. This subsection expires September 1, 2019.

No equivalent provision.

SECTION 3. Section 154.001, Family Code, is amended by amending Subsection (b) and adding Subsection (b-1) to read as follows:

(b) In a suit filed by the Department of Family and Protective Services to be named managing conservator of a child, the court may not order a parent of the child to make periodic payments for the support of the child while the suit is pending, except as provided by this section.

(b-1) Unless a court has determined a parent is indigent, the [The] court may order either or both parents to make periodic payments for the support of a child in a proceeding in which the Department of Family and Protective [and Regulatory] Services is named [temporary] managing conservator. [In a proceeding in which the Department of Protective and Regulatory Services is named permanent managing conservator of a child whose parents' rights have not been terminated, the court shall order each parent that is financially able to make periodic payments for the support of the child.]

No equivalent provision.

SECTION 4. Section 155.201, Family

Code, is amended by adding Subsection (d) to read as follows:

(d) On receiving notice that a court exercising jurisdiction under Chapter 262 has ordered the transfer of a suit under Section 262.203(a)(2), the court of continuing, exclusive jurisdiction shall, pursuant to the requirements of Section 155.204(i), transfer the proceedings to the court in which the suit under Chapter 262 is pending.

No equivalent provision.

SECTION 5. Section 155.204(i), Family Code, is amended to read as follows:

(i) If a transfer order has been signed by a court exercising jurisdiction under Chapter 262, the Department of Family and Protective Services shall [a party may] file the transfer order with the clerk of the court of continuing, exclusive jurisdiction. On receipt and without a hearing or further order from the court of continuing, exclusive jurisdiction, the clerk of the court of continuing, exclusive jurisdiction shall transfer the files as provided by this subchapter.

No equivalent provision.

SECTION 6. Section 161.001, Family Code, is amended by adding Subsection (c) to read as follows:

(c) A court may not make a finding under Subsection (b) and order termination of the parent-child relationship based on evidence that the parent:

(1) homeschooled the child;

(2) is economically disadvantaged;

(3) engaged in reasonable discipline of the child; or

(4) has been charged with a nonviolent misdemeanor offense other than:

(A) an offense under Title 5, Penal Code;

(B) an offense under Title 6, Penal Code; or

(C) an offense that involves family violence, as defined by Section 71.004 of this code.

No equivalent provision.

SECTION 7. Section 161.206, Family Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) In a suit filed by the Department of Family and Protective Services seeking termination of the parent-child relationship

for more than one parent of the child, the court may order termination of the parent-child relationship for a parent only if the court finds by clear and convincing evidence grounds for the termination of the parent-child relationship for that parent.

No equivalent provision.

SECTION 8. Chapter 261, Family Code, is amended by adding Subchapter F to read as follows:

SUBCHAPTER F. PROTECTIVE ORDER IN CERTAIN CASES OF ABUSE OR NEGLECT

Sec. 261.501. FILING APPLICATION FOR PROTECTIVE ORDER IN CERTAIN CASES OF ABUSE OR NEGLECT. The department may file an application for a protective order for a child's protection under this subchapter on the department's own initiative or jointly with a parent, relative, or caregiver of the child who requests the filing of the application if the department:

(1) has temporary managing conservatorship of the child;

(2) determines that:

(A) the child:

(i) is a victim of abuse or neglect; or

(ii) has a history of being abused or neglected; and

(B) there is a threat of:

(i) immediate or continued abuse or neglect to the child;

(ii) someone illegally taking the child from the home in which the child is placed;

(iii) harassment to the caregiver with whom the child is placed; or

(iv) someone committing an act of violence against the child or the child's caregiver; and

(3) is not otherwise authorized to apply for a protective order for the child's protection under Chapter 82.

Sec. 261.502. CERTIFICATION OF FINDINGS. (a) In making the application under this subchapter, the department must certify that:

(1) the department has diligently searched for and:

(A) was unable to locate the child's parent, legal guardian, or custodian, other than the respondent to the application; or

(B) located and provided notice of the proposed application to the child's parent, legal guardian, or custodian, other than the

respondent to the application; and
(2) if applicable, the relative or caregiver who is jointly filing the petition, or with whom the child would reside following an entry of the protective order, has not abused or neglected the child and does not have a history of abuse or neglect.

(b) An application for a temporary ex parte order under Section 261.503 may be filed without making the findings required by Subsection (a) if the department certifies that the department believes that there is an immediate danger of abuse or neglect to the child.

Sec. 261.503. TEMPORARY EX PARTE ORDER. If the court finds from the information contained in an application for a protective order that there is an immediate danger of abuse or neglect to the child, the court, without further notice to the respondent and without a hearing, may enter a temporary ex parte order for the protection of the child.

Sec. 261.504. REQUIRED FINDINGS; ISSUANCE OF PROTECTIVE ORDER.

(a) At the close of a hearing on an application for a protective order under this subchapter, the court shall find whether there are reasonable grounds to believe that:

(1) the child:

(A) is a victim of abuse or neglect; or

(B) has a history of being abused or neglected; and

(2) there is a threat of:

(A) immediate or continued abuse or neglect to the child;

(B) someone illegally taking the child from the home in which the child is placed;

(C) harassment to the caregiver with whom the child is placed; or

(D) someone committing an act of violence against the child or the child's caregiver.

(b) If the court makes an affirmative finding under Subsection (a), the court shall issue a protective order that includes a statement of that finding.

Sec. 261.505. APPLICATION OF OTHER LAW. To the extent applicable, except as otherwise provided by this subchapter, Title 4 applies to a protective order issued under this subchapter.

SECTION 1. Subchapter A, Chapter 262, Family Code, is amended by adding Section

SECTION 9. Subchapter A, Chapter 262, Family Code, is amended by adding Section

262.0022 to read as follows:

Sec. 262.0022. REVIEW OF PLACEMENT; FINDINGS. At each hearing under this chapter, the court shall review the placement of each child in the temporary or permanent managing conservatorship of the department who is not placed with a relative caregiver or designated caregiver as defined by Section 264.751. The court shall make a finding as to whether the department has made reasonable efforts to place the child with a relative or other designated caregiver.

SECTION 2. Subchapter A, Chapter 262, Family Code, is amended by adding Sections 262.013 and 262.014 to read as follows:

Sec. 262.013. VOLUNTARY TEMPORARY MANAGING CONSERVATORSHIP. In a suit affecting the parent-child relationship, a person's voluntary agreement to temporarily place the person's child in the managing conservatorship of the department is inadmissible in a court hearing under this subtitle as evidence that the person abused or neglected the child.

Sec. 262.014. DISCLOSURE OF CERTAIN EVIDENCE. On the request of the attorney for a parent who is a party in a suit affecting the parent-child relationship filed under this chapter, or the attorney ad litem for the parent's child, the Department of Family and Protective Services shall, before the full adversary hearing, provide:

- (1) the name of any person, excluding a department employee, who the department will call as is a witness to any of the allegations contained in the petition filed by the department;
- (2) a copy of any offense report relating to the allegations contained in the petition filed by the department; and
- (3) a copy of any photograph, video, or recording that constitutes or contains evidence that is material to the allegations contained in the petition filed by the department.

262.0022 to read as follows:

Sec. 262.0022. REVIEW OF PLACEMENT; FINDINGS. At each hearing under this chapter, the court shall review the placement of each child in the temporary or permanent managing conservatorship of the Department of Family and Protective Services who is not placed with a relative caregiver or designated caregiver as defined by Section 264.751. The court shall include in its findings a statement on whether the department has the option of placing the child with a relative or other designated caregiver.

SECTION 10. Subchapter A, Chapter 262, Family Code, is amended by adding Sections 262.013 and 262.014 to read as follows:

Sec. 262.013. VOLUNTARY TEMPORARY MANAGING CONSERVATORSHIP. In a suit affecting the parent-child relationship filed by the Department of Family and Protective Services, the existence of a parent's voluntary agreement to temporarily place the parent's child in the managing conservatorship of the Department of Family and Protective Services is not an admission by the parent that the parent engaged in conduct that endangered the child.

Sec. 262.014. DISCLOSURE OF CERTAIN EVIDENCE. On the request of the attorney for a parent who is a party in a suit affecting the parent-child relationship filed under this chapter, or the attorney ad litem for the parent's child, the Department of Family and Protective Services shall, before the full adversary hearing, provide:

- (1) the name of any person, excluding a department employee, who the department will call as a witness to any of the allegations contained in the petition filed by the department;
- (2) a copy of any offense report relating to the allegations contained in the petition filed by the department that will be used in court to refresh a witness's memory; and
- (3) a copy of any photograph, video, or recording that will be presented as evidence.

No equivalent provision.

SECTION 11. Section 262.113, Family Code, is amended to read as follows:

Sec. 262.113. FILING SUIT WITHOUT TAKING POSSESSION OF CHILD. An original suit filed by a governmental entity that requests to take possession of a child after notice and a hearing must be supported by an affidavit sworn to by a person with personal knowledge and stating facts sufficient to satisfy a person of ordinary prudence and caution that:

- (1) there is a continuing danger to the physical health or safety of the child caused by an act or failure to act of the person entitled to possession of the child and that allowing the child to remain in the home would be contrary to the child's welfare; and
 - (2) reasonable efforts, consistent with the circumstances and providing for the safety of the child, have been made to prevent or eliminate the need to remove the child from the child's home[; and
- ~~[(2) allowing the child to remain in the home would be contrary to the child's welfare].~~

No equivalent provision.

SECTION 12. Subchapter B, Chapter 262, Family Code, is amended by adding Section 262.116 to read as follows:

Sec. 262.116. LIMITS ON REMOVAL. (a) The Department of Family and Protective Services may not take possession of a child under this subchapter based solely on evidence that the parent:

- (1) homeschooled the child;
- (2) is economically disadvantaged;
- (3) engaged in reasonable discipline of the child; or
- (4) has been charged with a nonviolent misdemeanor offense other than:
 - (A) an offense under Title 5, Penal Code;
 - (B) an offense under Title 6, Penal Code; or
 - (C) an offense that involves family violence, as defined by Section 71.004 of this code.

(b) The department shall train child protective services caseworkers regarding the prohibitions on removal provided under Subsection (a).

(c) The executive commissioner of the Health and Human Services Commission may adopt rules to implement this section.

SECTION 3. Section 262.201, Family Code, is amended by amending Subsection (c) and adding Subsection (c-1) to read as follows:

(c) If the court finds sufficient evidence to satisfy a person of ordinary prudence and caution that there is a continuing danger to the physical health or safety of the child and for the child to remain in the home is contrary to the welfare of the child, the court shall:

(1) issue an appropriate temporary order under Chapter 105;

(2) ~~[- The court shall]~~ require each parent, alleged father, or relative of the child before the court to:

(A) complete the proposed child placement resources form provided under Section 261.307;

(B) ~~and]~~ file the form with the court, if the form has not been previously filed with the court;~~;~~ and

(C) provide the Department of Family and Protective Services with information necessary to locate any other absent parent, alleged father, or relative of the child;

(3) ~~[- The court shall]~~ inform each parent, alleged father, or relative of the child before the court that the person's failure to submit the proposed child placement resources form will not delay any court proceedings relating to the child;

(4) ~~[- The court shall]~~ inform each parent in open court that parental and custodial rights and duties may be subject to restriction or to termination unless the parent or parents are willing and able to provide the child with a safe environment; and

(5) unless the court has waived the requirement of a service plan on the court's finding of aggravated circumstances under Section 262.2015, after reviewing the basic service plan required under Section 262.206 and making any change or modification the court considers necessary, incorporate the plan into the order of the court and render any additional appropriate order to implement or require compliance with the plan.

(c-1) If the court finds that the child requires protection from family violence by a member of the child's family or household, the court shall render a protective order

No equivalent provision.

under Title 4 for the child. In this subsection, "family violence" has the meaning assigned by Section 71.004.

No equivalent provision.

No equivalent provision.

SECTION 4. Subchapter C, Chapter 262, Family Code, is amended by adding Section 262.206 to read as follows:

Sec. 262.206. BASIC SERVICE PLAN.

(a) The Department of Family and Protective Services shall develop a statewide uniform basic family service plan to be filed with the court at each full adversary hearing held under Section

SECTION 13. Section 262.201, Family Code, is amended by adding Subsection (a-5) to read as follows:

(a-5) If a parent who is not indigent appears in opposition to the suit, the court may, for good cause shown, postpone the full adversary hearing for not more than seven days from the date of the parent's appearance to allow the parent to hire an attorney or to provide the parent's attorney time to respond to the petition and prepare for the hearing. A postponement under this subsection is subject to the limits and requirements prescribed by Subsection (a-3).

SECTION 14. Section 262.203(a), Family Code, is amended to read as follows:

(a) On the motion of a party or the court's own motion, if applicable, the court that rendered the temporary order shall in accordance with procedures provided by Chapter 155:

(1) transfer the suit to the court of continuing, exclusive jurisdiction, if any, if the court finds that the transfer is:

(A) necessary for the convenience of the parties; and

(B) in the best interest of the child;

(2) ~~[if grounds exist for mandatory transfer from the court of continuing, exclusive jurisdiction under Section 155.201,]~~ order transfer of the suit from the [that] court of continuing, exclusive jurisdiction; or

(3) if grounds exist for transfer based on improper venue, order transfer of the suit to the court having venue of the suit under Chapter 103.

No equivalent provision.

262.201.

(b) The basic service plan must:

(1) be in writing;

(2) specify the primary permanency goal for the child;

(3) state the steps necessary to:

(A) return the child to the child's home if the child is placed in foster care;

(B) enable the child to remain in the child's home with the assistance of a service plan if the child's placement is in the child's home under the department's supervision; or

(C) otherwise provide a safe placement for the child;

(4) state the basic actions the child's parents must take to achieve the plan goal during the period of the service plan and the assistance to be provided to the parents by the department or other agency toward meeting that goal;

(5) state any basic skill or knowledge that the child's parents must acquire or learn and any basic behavioral change the parents must exhibit to achieve the plan goal;

(6) state the initial actions the child's parents must take to ensure that the child attends school and maintains or improves the child's academic compliance;

(7) prescribe any other basic condition that the department determines necessary for the success of the service plan; and

(8) be printed in English, Spanish, and any other language the department considers appropriate.

(c) The basic service plan must include the following statement:

TO THE PARENT: THIS IS A VERY IMPORTANT DOCUMENT. THE PURPOSE OF THIS PLAN IS TO HELP YOU PROVIDE YOUR CHILD WITH A SAFE ENVIRONMENT WITHIN THE REASONABLE PERIOD SPECIFIED IN THE PLAN. AT THE INITIAL COURT HEARING, A JUDGE WILL REVIEW THE PLAN, MODIFY THE PLAN IF NECESSARY, AND REQUIRE COMPLIANCE WITH THE PLAN. IF YOU ARE UNWILLING OR UNABLE TO PROVIDE YOUR CHILD WITH A SAFE ENVIRONMENT, YOUR PARENTAL AND CUSTODIAL DUTIES AND RIGHTS MAY BE RESTRICTED OR TERMINATED OR YOUR CHILD MAY NOT BE RETURNED TO YOU. AT THE INITIAL COURT HEARING, A JUDGE

WILL REVIEW THIS BASIC SERVICE PLAN. A SUBSEQUENT COURT STATUS HEARING MAY BE SCHEDULED AT WHICH A JUDGE MAY REVIEW AN INDIVIDUALIZED SERVICE PLAN FOR YOUR CHILD AND REQUIRE COMPLIANCE WITH THE INDIVIDUALIZED PLAN.

(d) The basic service plan may not include an allegation of abuse or neglect of the child or a restatement of the facts of the case. An allegation of abuse or neglect or a restatement of the facts of the case in a basic service plan is inadmissible in court as evidence.

(e) Not later than the fifth business day after the date the full adversary hearing is held under Section 262.201, the department shall:

(1) make all referrals necessary for the parents to comply with the parents' responsibilities under the basic service plan; and

(2) provide to the parents an accurate list of approved providers who provide those services in the department region in which the parent resides.

No equivalent provision.

SECTION 5. Section 263.002, Family Code, is amended to read as follows:

Sec. 263.002. REVIEW OF PLACEMENTS BY COURT; FINDINGS.

(a) In a suit affecting the parent-child relationship in which the department has been appointed by the court or designated in an affidavit of relinquishment of parental rights as the temporary or permanent managing conservator of a child, the court shall hold a hearing to review:

(1) the conservatorship appointment and substitute care; and

(2) for a child committed to the Texas Juvenile Justice Department, the child's commitment in the Texas Juvenile Justice Department or release under supervision by

SECTION 15. Subchapter C, Chapter 262, Family Code, is amended by adding Section 262.206 to read as follows:

Sec. 262.206. EX PARTE HEARINGS PROHIBITED. Unless otherwise authorized by this chapter or other law, a hearing held by a court in a suit under this chapter may not be ex parte.

SECTION 16. Section 263.002, Family Code, is amended to read as follows:

Sec. 263.002. REVIEW OF PLACEMENTS BY COURT; FINDINGS.

(a) In a suit affecting the parent-child relationship in which the department has been appointed by the court or designated in an affidavit of relinquishment of parental rights as the temporary or permanent managing conservator of a child, the court shall hold a hearing to review:

(1) the conservatorship appointment and substitute care; and

(2) for a child committed to the Texas Juvenile Justice Department, the child's commitment in the Texas Juvenile Justice Department or release under supervision by

the Texas Juvenile Justice Department.

(b) At each hearing under this chapter, the court shall review the placement of each child in the temporary or permanent managing conservatorship of the department who is not placed with a relative caregiver or designated caregiver as defined by Section 264.751. The court shall make a finding as to whether the department is able to place the child with a relative or other designated caregiver and state the evidence that supports its finding.

No equivalent provision.

SECTION 6. The heading to Subchapter B, Chapter 263, Family Code, is amended to read as follows:

SUBCHAPTER B. INDIVIDUALIZED SERVICE PLAN AND VISITATION PLAN

SECTION 7. Sections 263.101, 263.102, and 263.103, Family Code, are amended to read as follows:

Sec. 263.101. DEPARTMENT TO FILE INDIVIDUALIZED SERVICE PLAN. Except as provided by Section 262.2015, [not later than the 45th day] after the date the court renders a temporary order appointing the department as temporary managing conservator of a child under Chapter 262 and before the date of the status hearing required under Subchapter C, the department may [shall] file with the court an individualized [a] service plan.

Sec. 263.102. INDIVIDUALIZED SERVICE PLAN; CONTENTS. (a) The individualized service plan must:

- (1) be specific;
- (2) be in writing in a language that the parents understand, or made otherwise available;
- (3) be prepared by the department in

the Texas Juvenile Justice Department.

(b) At each hearing under this chapter, the court shall review the placement of each child in the temporary or permanent managing conservatorship of the department who is not placed with a relative caregiver or designated caregiver as defined by Section 264.751. The court shall include in its findings a statement whether the department placed the child with a relative or other designated caregiver.

SECTION 17. Section 263.0021, Family Code, is amended by adding Subsection (e) to read as follows:

(e) Notice of a hearing under this chapter provided to an individual listed under Subsection (b)(2) must state that the individual may, but is not required to, attend the hearing and may request to be heard at the hearing.

No equivalent provision.

SECTION 18. Section 263.102, Family Code, is amended by amending Subsection (b) and adding Subsections (c) and (c-1) to read as follows:

conference with the child's parents;

(4) state appropriate deadlines;

(5) specify the primary permanency goal and at least one alternative permanency goal;

(6) state steps that are necessary to:

(A) return the child to the child's home if the placement is in foster care;

(B) enable the child to remain in the child's home with the assistance of a service plan if the placement is in the home under the department's supervision; or

(C) otherwise provide a permanent safe placement for the child;

(7) state the actions and responsibilities that are necessary for the child's parents to take to achieve the plan goal during the period of the service plan and the assistance to be provided to the parents by the department or other agency toward meeting that goal;

(8) state any specific skills or knowledge that the child's parents must acquire or learn, as well as any behavioral changes the parents must exhibit, to achieve the plan goal;

(9) state the actions and responsibilities that are necessary for the child's parents to take to ensure that the child attends school and maintains or improves the child's academic compliance;

(10) state the name of the person with the department whom the child's parents may contact for information relating to the child if other than the person preparing the plan; and

(11) prescribe any other term or condition that the department determines to be necessary to the service plan's success.

(b) The individualized service plan must ~~shall~~ include the following statement:
TO THE PARENT: THIS IS A VERY IMPORTANT DOCUMENT. THE [HFS] PURPOSE OF THIS PLAN IS TO HELP YOU PROVIDE YOUR CHILD WITH A SAFE ENVIRONMENT WITHIN THE REASONABLE PERIOD SPECIFIED IN THE PLAN. IF YOU ARE UNWILLING OR UNABLE TO PROVIDE YOUR CHILD WITH A SAFE ENVIRONMENT, YOUR PARENTAL AND CUSTODIAL DUTIES AND RIGHTS MAY BE RESTRICTED OR TERMINATED OR YOUR CHILD MAY NOT BE RETURNED TO YOU. AT [THERE WILL BE] A COURT HEARING, [AT WHICH]

(b) The service plan must ~~shall~~ include the following statement:
TO THE PARENT: THIS IS A VERY IMPORTANT DOCUMENT. THE [HFS] PURPOSE OF THIS PLAN IS TO HELP YOU PROVIDE YOUR CHILD WITH A SAFE ENVIRONMENT WITHIN THE REASONABLE PERIOD SPECIFIED IN THE PLAN. IF YOU ARE UNWILLING OR UNABLE TO PROVIDE YOUR CHILD WITH A SAFE ENVIRONMENT, YOUR PARENTAL AND CUSTODIAL DUTIES AND RIGHTS MAY BE RESTRICTED OR TERMINATED OR YOUR CHILD MAY NOT BE RETURNED TO YOU. AT [THERE WILL BE] A COURT HEARING, [AT

A JUDGE WILL REVIEW THIS INDIVIDUALIZED SERVICE PLAN, MODIFY THE PLAN IF NECESSARY, INCORPORATE THE PLAN INTO THE COURT'S ORDER, AND REQUIRE COMPLIANCE WITH THE PLAN.

(c) The individualized service plan may not include an allegation of abuse or neglect of the child or a restatement of the facts of the case. An allegation of abuse or neglect or a restatement of the facts of the case in an individualized service plan is inadmissible in the court as evidence.

(c-1) The department shall provide with the individualized service plan a list of approved providers in the department service area in which the parent resides of the services necessary for the parents to comply with the plan. The department shall maintain the accuracy of the provider list.

(d) The department or other authorized entity must write the individualized service plan in a manner that is clear and understandable to the parent in order to facilitate the parent's ability to follow the requirements of the service plan.

(e) Regardless of whether the goal stated in a child's individualized service plan as required under Subsection (a)(5) is to return the child to the child's parents or to terminate parental rights and place the child for adoption, the department shall concurrently provide to the child and the child's family, as applicable:

(1) time-limited family reunification services as defined by 42 U.S.C. Section 629a for a period not to exceed the period within which the court must render a final order in or dismiss the suit affecting the parent-child relationship with respect to the child as provided by Subchapter E; and

(2) adoption promotion and support services as defined by 42 U.S.C. Section 629a.

(f) The department shall consult with relevant professionals to determine the skills or knowledge that the parents of a child under two years of age should learn or acquire to provide a safe placement for the child. The department shall incorporate

WHICH] A JUDGE WILL REVIEW THIS SERVICE PLAN, MODIFY THE PLAN IF NECESSARY, AND REQUIRE COMPLIANCE WITH THE PLAN. A SUBSEQUENT HEARING MAY BE SCHEDULED AT WHICH A JUDGE MAY REVIEW THE PLAN.

(c) A service plan may not include an allegation of abuse or neglect of the child or a restatement of the facts of the case. An allegation of abuse or neglect or a restatement of the facts of the case in a service plan is inadmissible in the court as evidence.

(c-1) Not later than the fifth business day after a hearing held under Section 262.201, the department shall:

(1) make all referrals necessary for each parent to comply with a judge's order for services; and

(2) provide to the parents any information available to the department on providers approved by the department to provide services in the service area in which the parent resides.

those skills and abilities into the department's individualized service plans, as appropriate.

Sec. 263.103. INDIVIDUALIZED [ORIGINAL] SERVICE PLAN: SIGNING AND TAKING EFFECT. (a) The individualized [original] service plan shall be developed jointly by the child's parents and a representative of the department. The department representative shall inform[, including informing] the parents of their rights in connection with the service plan process. If a parent is not able or willing to participate in the development of the service plan, it should be so noted in the plan.

(a-1) Before the individualized [original] service plan is signed, the child's parents and the representative of the department shall discuss each term and condition of the plan.

(b) The child's parents and the person preparing the individualized [original] service plan shall sign the plan, and the department shall give each parent a copy of the service plan.

(c) If the department determines that the child's parents are unable or unwilling to participate in the development of the individualized [original] service plan or sign the plan, the department may file the plan without the parents' signatures.

(d) The individualized [original] service plan takes effect when:

(1) the child's parents and the appropriate representative of the department sign the plan; or

(2) the court issues an order giving effect to the plan without the parents' signatures.

(e) The individualized [original] service plan is in effect until amended by the court or as provided under Section 263.104.

SECTION 8. Section 263.105(c), Family Code, is amended to read as follows:

(c) The court may modify an individualized [original] or amended service plan at any time.

No equivalent provision.

SECTION 9. Section 263.106, Family Code, is amended to read as follows:

Sec. 263.106. COURT IMPLEMENTATION OF SERVICE PLAN. After reviewing the individualized

No equivalent provision.

~~[original]~~ or any amended service plan and making any changes or modifications it deems necessary, the court shall incorporate the individualized ~~[original]~~ and any amended service plan into the orders of the court and may render additional appropriate orders to implement or require compliance with the ~~[an original or amended service]~~ plan.

No equivalent provision.

SECTION 19. Section 263.306(a), Family Code, is amended to read as follows:

(a) At each permanency hearing the court shall:

(1) identify all persons or parties present at the hearing or those given notice but failing to appear;

(2) review the efforts of the department in:

(A) attempting to locate all necessary persons;

(B) requesting service of citation; and

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

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

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

(5) return the child to the parent or parents if the child's parent or 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;

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

(7) evaluate the department's efforts to identify relatives who could provide the child with a safe environment, if 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) 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;

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

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

(12) 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) 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) determine whether:

(A) the child continues to need substitute care;

(B) the department has placed the child with a relative or other designated caregiver and whether 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) 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) 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) 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) 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) 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.

No equivalent provision.

SECTION 20. Section 263.401, Family Code, is amended to read as follows:

Sec. 263.401. DISMISSAL AFTER ONE YEAR; NEW TRIALS; EXTENSION. (a) Unless the court has commenced the trial on the merits or granted an extension under Subsection (b) or (b-1), on the first Monday after the first anniversary of the date the court rendered a temporary order appointing the department as temporary managing conservator, the court's jurisdiction over ~~[court shall dismiss]~~ the suit affecting the parent-child relationship filed by the department that requests termination of the parent-child relationship or requests that the department be named conservator of the child is terminated and the suit is automatically dismissed without a court order.

(b) Unless the court has commenced the trial on the merits, the court may not retain the suit on the court's docket after the time described by Subsection (a) unless the court finds that extraordinary circumstances necessitate the child remaining in the temporary managing conservatorship of the department and that continuing the appointment of the department as temporary managing conservator is in the best interest of the child. If the court makes those findings, the court may retain the suit on the court's docket for a period not to exceed 180 days after the time described by Subsection (a). If the court retains the suit on the court's docket, the court shall render an order in which the court:

- (1) schedules the new date on which the suit will be automatically dismissed if the trial on the merits has not commenced, which date must be not later than the 180th day after the time described by Subsection (a);
- (2) makes further temporary orders for the

safety and welfare of the child as necessary to avoid further delay in resolving the suit; and

(3) sets the trial on the merits on a date not later than the date specified under Subdivision (1).

(b-1) If, after commencement of the initial trial on the merits within the time required by Subsection (a) or (b), the court grants a motion for a new trial or mistrial, or the case is remanded to the court by an appellate court following an appeal of the court's final order, the court shall retain the suit on the court's docket and render an order in which the court:

(1) schedules a new date on which the suit will be automatically dismissed if the new trial has not commenced, which must be a date not later than the 180th day after the date on which:

(A) the motion for a new trial or mistrial is granted; or

(B) the appellate court remanded the case;

(2) makes further temporary orders for the safety and welfare of the child as necessary to avoid further delay in resolving the suit; and

(3) sets the new trial on the merits for a date not later than the date specified under Subdivision (1).

(c) If the court grants an extension under Subsection (b) or (b-1) but does not commence the trial on the merits before the dismissal date, the court's jurisdiction over ~~[court shall dismiss]~~ the suit is terminated and the suit is automatically dismissed without a court order. The court may not grant an additional extension that extends the suit beyond the required date for dismissal under Subsection (b) or (b-1), as applicable.

SECTION 10. Section 263.403(a), Family Code, is amended to read as follows:

(a) Notwithstanding Section 263.401, the court may retain jurisdiction and not dismiss the suit or render a final order as required by that section if the court renders a temporary order that:

(1) finds that retaining jurisdiction under this section is in the best interest of the child;

SECTION 21. Section 263.403, Family Code, is amended by amending Subsections (a) and (c) and adding Subsection (a-1) to read as follows:

(a) Notwithstanding Section 263.401, the court may retain jurisdiction and not dismiss the suit or render a final order as required by that section if the court renders a temporary order that:

(1) finds that retaining jurisdiction under this section is in the best interest of the child;

- (2) orders the department to:
- (A) return the child to the child's parent; or
 - (B) transition the child, according to a schedule determined by the department, from substitute care to the parent while the parent completes the remaining requirements imposed under a service plan and specified in the temporary order that are necessary for the child's return;
- (3) orders the department to continue to serve as temporary managing conservator of the child; and
- (4) orders the department to monitor the child's placement to ensure that the child is in a safe environment.

- (2) orders the department to:
- (A) return the child to the child's parent; or
 - (B) transition the child, according to a schedule determined by the department or court, from substitute care to the parent while the parent completes the remaining requirements imposed under a service plan and specified in the temporary order that are necessary for the child's return;
- (3) orders the department to continue to serve as temporary managing conservator of the child; and
- (4) orders the department to monitor the child's placement to ensure that the child is in a safe environment.

(a-1) The department may request the court to retain jurisdiction for an additional six months as necessary for a parent to complete the remaining requirements in a service plan and specified in the temporary order that are mandatory for the child's return.

(c) If before the dismissal of the suit or the commencement of the trial on the merits a child placed with a parent under this section must be moved from that home by the department or the court renders a temporary order terminating the transition order issued under Subsection (a)(2)(B) [before the dismissal of the suit or the commencement of the trial on the merits], the court shall, at the time of the move or order, schedule a new date for dismissal of the suit [unless a trial on the merits has commenced]. The new dismissal date may not be later than the original dismissal date established under Section 263.401 or the 180th day after the date the child is moved or the order is rendered under this subsection, whichever date is later.

SECTION 11. Sections 263.405(a) and (b), Family Code, are amended to read as follows:

- (a) An appeal of a final order rendered under this subchapter is governed by this subchapter and the procedures for accelerated appeals in civil cases under the Texas Rules of Appellate Procedure. The appellate court shall render its final order or judgment with the least possible delay.
- (b) A final order rendered under this subchapter must contain the following prominently displayed statement in

No equivalent provision.

boldfaced type, in capital letters, or underlined: "A PARTY AFFECTED BY THIS ORDER HAS THE RIGHT TO APPEAL. AN APPEAL IN A SUIT IN WHICH TERMINATION OF THE PARENT-CHILD RELATIONSHIP IS SOUGHT IS GOVERNED BY SUBCHAPTER E, CHAPTER 263, FAMILY CODE, AND THE PROCEDURES FOR ACCELERATED APPEALS IN CIVIL CASES UNDER THE TEXAS RULES OF APPELLATE PROCEDURE. FAILURE TO FOLLOW SUBCHAPTER E, CHAPTER 263, FAMILY CODE, AND THE TEXAS RULES OF APPELLATE PROCEDURE FOR ACCELERATED APPEALS MAY RESULT IN THE DISMISSAL OF THE APPEAL."

SECTION 12. Subchapter E, Chapter 263, Family Code, is amended by adding Sections 263.4055 and 263.4056 to read as follows:

Sec. 263.4055. MOTION FOR NEW TRIAL ON FINAL ORDER; TIME FOR FILING AN APPEAL. (a) A motion for a new trial following a final order rendered under this subchapter must be filed not later than the fifth day after the date the final order is filed with the clerk.

(b) The court shall hold a hearing on the motion for a new trial not later than the 14th day after the date the motion is filed. Unless the court rules on the motion for a new trial within the period provided by this subsection, the motion is denied by operation of law.

(c) If a motion for a new trial is filed, an appeal of a final order under Section 263.405 must be filed not later than the 20th day after the date the court rules on the motion for a new trial or the date the motion is denied by operation of law.

(d) To the extent that this section conflicts with the Texas Rules of Civil Procedure or the Texas Rules of Appellate Procedure, this section controls. Notwithstanding Section 22.004, Government Code, this section may not be modified or repealed by a rule adopted by the supreme court.

Sec. 263.4056. DEADLINE FOR FILING COURT REPORTER'S RECORD IN APPELLATE COURT. (a) In an appeal of

No equivalent provision.

a final order rendered under this subchapter, the court reporter for the court that rendered the order shall prepare and submit the reporter's record of the trial to the appellate court not later than the 20th day after the date the notice of appeal is filed with the court.

(b) On a showing of good cause, the appellate court may extend the deadline for submitting the reporter's record. If the court grants an extension under this subsection, the reporter's record must be filed with the appellate court not later than the 40th day after the date the notice of appeal is filed with the court.

(c) To the extent that this section conflicts with the Texas Rules of Appellate Procedure, this section controls. Notwithstanding Section 22.004, Government Code, this section may not be modified or repealed by a rule adopted by the supreme court.

No equivalent provision.

SECTION 22. Subchapter E, Chapter 263, Family Code, is amended by adding Section 263.4055 to read as follows:

Sec. 263.4055. SUPREME COURT RULES. The supreme court by rule shall establish civil and appellate procedures to address:

- (1) conflicts between the filing of a motion for new trial and the filing of an appeal of a final order rendered under this chapter; and
- (2) the period, including an extension of at least 20 days, for a court reporter to submit the reporter's record of a trial to an appellate court following a final order rendered under this chapter.

No equivalent provision.

SECTION 23. 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) whether the department placed the child with a relative or other designated caregiver and 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;

(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 13. Section 264.018, Family Code, is amended by amending Subsection (f) and adding Subsections (f-1) and (f-2) to read as follows:

(f) Except as provided by Subsection (f-1) or (f-2), as [As] soon as possible but not later than the 10th day after the date the department becomes aware of a significant event affecting a child in the conservatorship of the department, the department shall provide notice of the significant event to:

(1) the child's parent;

(2) an attorney ad litem appointed for the

SECTION 24. Section 264.018, Family Code, is amended by amending Subsection (f) and adding Subsections (f-1), (f-2), and (f-3) to read as follows:

(f) Except as provided by Subsection (f-1) or (f-2), as [As] soon as possible but not later than the 10th day after the date the department becomes aware of a significant event affecting a child in the conservatorship of the department, the department shall provide notice of the significant event to:

(1) the child's parent;

(2) an attorney ad litem appointed for the

- child under Chapter 107;
- (3) a guardian ad litem appointed for the child under Chapter 107;
 - (4) a volunteer advocate appointed for the child under Chapter 107;
 - (5) the licensed administrator of the child-placing agency responsible for placing the child or the licensed administrator's designee;
 - (6) a foster parent, prospective adoptive parent, relative of the child providing care to the child, or director of the group home or general residential operation where the child is residing; and
 - (7) any other person determined by a court to have an interest in the child's welfare.

(f-1) As soon as possible but not later than the fifth day after the date a child-placing agency notifies the department of the agency's intent to change the placement of a child in the conservatorship of the department, the department shall give notice of the impending placement change and the reason given for the placement change to:

- (1) the child's parent;
- (2) an attorney ad litem appointed for the child under Chapter 107;
- (3) a guardian ad litem appointed for the child under Chapter 107;
- (4) a volunteer advocate appointed for the child under Chapter 107;
- (5) a foster parent, prospective adoptive parent, relative of the child providing care to the child, or director of the group home or general residential operation where the child is residing; and
- (6) any other person determined by a court to have an interest in the child's welfare.

(f-2) As soon as possible but not later than the fifth day after the date a foster parent requests the removal of a child in the conservatorship of the department from the

- child under Chapter 107;
- (3) a guardian ad litem appointed for the child under Chapter 107;
 - (4) a volunteer advocate appointed for the child under Chapter 107;
 - (5) the licensed administrator of the child-placing agency responsible for placing the child or the licensed administrator's designee;
 - (6) a foster parent, prospective adoptive parent, relative of the child providing care to the child, or director of the group home or general residential operation where the child is residing; and
 - (7) any other person determined by a court to have an interest in the child's welfare.

(f-1) As soon as possible after the department becomes aware of a change in placement of a child in the conservatorship of the department, the department shall give notice of the placement change to the managed care organization that contracts with the commission to provide health care services to the child under the STAR Health program. The managed care organization, in coordination with the department, shall give notice of the placement change to the primary care physician listed in the child's health passport.

(f-2) As soon as possible but not later than the fifth day after the date a child-placing agency notifies the department of the agency's intent to change the placement of a child in the conservatorship of the department, the department shall give notice of the impending placement change and the reason given for the placement change to:

- (1) the child's parent;
- (2) an attorney ad litem appointed for the child under Chapter 107;
- (3) a guardian ad litem appointed for the child under Chapter 107;
- (4) a volunteer advocate appointed for the child under Chapter 107;
- (5) a foster parent, prospective adoptive parent, relative of the child providing care to the child, or director of the group home or general residential operation where the child is residing; and
- (6) any other person determined by a court to have an interest in the child's welfare.

(f-3) As soon as possible but not later than the fifth day after the date a foster parent requests the removal of a child in the conservatorship of the department from the

foster home, the department shall give notice of the impending placement change to:

- (1) the child's parent;
- (2) an attorney ad litem appointed for the child under Chapter 107;
- (3) a guardian ad litem appointed for the child under Chapter 107;
- (4) a volunteer advocate appointed for the child under Chapter 107;
- (5) the licensed administrator of the child-placing agency responsible for placing the child or the licensed administrator's designee; and
- (6) any other person determined by a court to have an interest in the child's welfare.

No equivalent provision.

foster home, the department shall give notice of the impending placement change to:

- (1) the child's parent;
- (2) an attorney ad litem appointed for the child under Chapter 107;
- (3) a guardian ad litem appointed for the child under Chapter 107;
- (4) a volunteer advocate appointed for the child under Chapter 107;
- (5) the licensed administrator of the child-placing agency responsible for placing the child or the licensed administrator's designee; and
- (6) any other person determined by a court to have an interest in the child's welfare.

SECTION 25. Section 264.121, Family Code, is amended by adding Subsections (a-3), (a-4), and (a-5) 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 the department's obligation to prepare the youth for independent living has been met.

(a-4) The annual update of the independent living skills assessment required under Subsection (a-3) must be conducted through the child's plan of service in coordination with the child, the caseworker, the Preparation for Adult Living Program staff, and the child's caregiver.

(a-5) The department shall work with interested parties to develop a plan to standardize the curriculum for the Preparation for Adult Living Program that ensures 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. This subsection expires September 1, 2019.

No equivalent provision.

SECTION 26. The heading to Chapter 266, Family Code, is amended to read as follows:
CHAPTER 266. MEDICAL CARE AND EDUCATIONAL SERVICES FOR

CHILDREN IN CONSERVATORSHIP OF
DEPARTMENT OF FAMILY AND
PROTECTIVE SERVICES [FOSTER
CARE]

No equivalent provision.

SECTION 27. Chapter 266, Family Code, is amended by adding Section 266.005 to read as follows:

Sec. 266.005. CONSULTATION FOR MEDICAL CARE. (a) A court may not render an order requiring or prohibiting medical care, including mental health care, for a child in the conservatorship of the department unless:

(1) the court finds that a medical or mental health professional, as appropriate, has been consulted regarding the proposed or prohibited care; and

(2) the medical or mental health professional has confirmed in writing that the medical or mental health treatment is medically necessary or, for an order prohibiting specific medical care, that the prohibition would not prevent the child from receiving medically necessary care.

(b) Subsection (a) does not apply to a court order for emergency medical care, including mental health care, for a child in the conservatorship of the department.

No equivalent provision.

SECTION 28. Subchapter A, Chapter 533, Government Code, is amended by adding Section 533.0056 to read as follows:

Sec. 533.0056. STAR HEALTH PROGRAM: NOTIFICATION OF PLACEMENT CHANGE. A contract between a managed care organization and the commission for the organization to provide health care services to recipients under the STAR Health program must require the organization to ensure continuity of care for a child whose placement has changed by:

(1) notifying each specialist treating the child of the placement change; and

(2) coordinating the transition of care from the child's previous treating primary care physician and treating specialists to the child's new treating primary care physician and treating specialists, if any.

No equivalent provision.

SECTION 29. Subchapter C, Chapter 42,

Human Resources Code, is amended by adding Section 42.066 to read as follows:
Sec. 42.066. REQUIRED SUBMISSION OF INFORMATION REQUESTED BY COURT. A general residential operation that provides mental health treatment or services to a child in the managing conservatorship of the department shall timely submit to the court in a suit affecting the parent-child relationship under Subtitle E, Title 5, Family Code, all information requested by that court.

No equivalent provision.

SECTION 30. The heading to Section 25.07, Penal Code, is amended to read as follows:

Sec. 25.07. VIOLATION OF CERTAIN COURT ORDERS OR CONDITIONS OF BOND IN A FAMILY VIOLENCE, CHILD ABUSE OR NEGLECT, SEXUAL ASSAULT OR ABUSE, STALKING, OR TRAFFICKING CASE.

No equivalent provision.

SECTION 31. Section 25.07(a), Penal Code, is amended to read as follows:

(a) A person commits an offense if, in violation of a condition of bond set in a family violence, sexual assault or abuse, stalking, or trafficking case and related to the safety of a victim or the safety of the community, an order issued under Chapter 7A, Code of Criminal Procedure, an order issued under Article 17.292, Code of Criminal Procedure, an order issued under Section 6.504, Family Code, Chapter 83, Family Code, if the temporary ex parte order has been served on the person, ~~or~~ Chapter 85, Family Code, or Subchapter F, Chapter 261, Family Code, or an order issued by another jurisdiction as provided by Chapter 88, Family Code, the person knowingly or intentionally:

(1) commits family violence or an act in furtherance of an offense under Section 20A.02, 22.011, 22.021, or 42.072;

(2) communicates:

(A) directly with a protected individual or a member of the family or household in a threatening or harassing manner;

(B) a threat through any person to a protected individual or a member of the family or household; or

(C) in any manner with the protected

individual or a member of the family or household except through the person's attorney or a person appointed by the court, if the violation is of an order described by this subsection and the order prohibits any communication with a protected individual or a member of the family or household;

(3) goes to or near any of the following places as specifically described in the order or condition of bond:

(A) the residence or place of employment or business of a protected individual or a member of the family or household; or

(B) any child care facility, residence, or school where a child protected by the order or condition of bond normally resides or attends;

(4) possesses a firearm;

(5) harms, threatens, or interferes with the care, custody, or control of a pet, companion animal, or assistance animal that is possessed by a person protected by the order or condition of bond; or

(6) removes, attempts to remove, or otherwise tampers with the normal functioning of a global positioning monitoring system.

No equivalent provision.

SECTION 32. The heading to Section 25.072, Penal Code, is amended to read as follows:

Sec. 25.072. REPEATED VIOLATION OF CERTAIN COURT ORDERS OR CONDITIONS OF BOND IN FAMILY VIOLENCE, CHILD ABUSE OR NEGLECT, SEXUAL ASSAULT OR ABUSE, STALKING, OR TRAFFICKING CASE.

SECTION 14. (a) The Department of Family and Protective Services shall develop the statewide uniform basic service plan as required by Section 262.206, Family Code, as added by this Act, not later than December 1, 2017.

(b) The changes in law made by this Act apply only to a service plan filed for a full adversary hearing held under Section 262.201, Family Code, or a status hearing held under Chapter 263, Family Code, on or after January 1, 2018. A hearing held before that date is governed by the law in effect immediately before the effective date of this

SECTION 33.

(a) The changes in law made by this Act apply only to a service plan filed for a full adversary hearing held under Section 262.201, Family Code, or a status hearing held under Chapter 263, Family Code, on or after January 1, 2018. A hearing held before that date is governed by the law in effect immediately before the effective date of this

Act, and that law is continued in effect for that purpose.

(c) Sections 263.405(a) and (b), Family Code, as amended by this Act, apply only to a final order rendered on or after the effective date of this Act. An order rendered before that date is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

(d) Sections 263.4055 and 263.4056, Family Code, as added by this Act, apply only to a motion for a new trial following a final order or an appeal of a final order rendered on or after the effective date of this Act. A motion for a new trial following a final order or an appeal of a final order rendered before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

(e) The changes in law made by this Act apply only to an original suit affecting the parent-child relationship filed on or after the effective date of this Act. An original suit affecting the parent-child relationship filed before the effective date of this Act is subject to the law in effect at the time the suit was filed, and the former law is continued in effect for that purpose.

Act, and that law is continued in effect for that purpose.

(b) The changes made by this Act to Section 263.401, Family Code, apply only to a suit affecting the parent-child relationship pending in a trial court on the effective date of this Act or filed on or after the effective date of this Act. A suit affecting the parent-child relationship in which a final order is rendered before the effective date of this Act is governed by the law in effect on the date the order was rendered, and the former law is continued in effect for that purpose.

(c) Except as otherwise provided by this section, the changes in law made by this Act apply only to a suit affecting the parent-child relationship filed on or after the effective date of this Act. A suit affecting the parent-child relationship filed before the effective date of this Act is subject to the law in effect at the time the suit was filed, and the former law is continued in effect for that purpose.

(d) Except as otherwise provided by this section, the changes in law made by this Act apply only to a contract for the provision of health care services under the STAR Health program between the Health and Human Services Commission and a managed care organization under Chapter 533, Government Code, that is entered into or renewed on or after the effective date of this Act.

(e) If before implementing Section 533.0056, Government Code, as added by

this Act, the Health and Human Services Commission determines that a waiver or authorization from a federal agency is necessary for implementation of that provision, the health and human services agency affected by the provision shall request the waiver or authorization and may delay implementing that provision until the waiver or authorization is granted.

No equivalent provision.

SECTION 15. This Act takes effect September 1, 2017.

SECTION 34. 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 35. Same as introduced version.