

- SUBJECT:** Disclosing whereabouts of relatives of children in state placement hearings
- COMMITTEE:** Juvenile Justice and Family Issues — favorable, with amendment
- VOTE:** 6 ayes — Goodman, A. Reyna, E. Reyna, Menendez, Morrison, Naishtat
0 nays
3 absent — P. King, Nixon, Tillery
- WITNESSES:** For — Bill Betzen, Texas Coalition for Adoption Resources and Education;
Austin Tighe, Justice for Children
Against — None
On — Charles Childress, Texas Department of Protective and Regulatory Services
- BACKGROUND:** Family Code, secs. 262.201, 263.202 and 263.306 provide for court hearings in cases where endangered or neglected children have been removed from their parents' homes by the Texas Department of Protective and Regulatory Services (DPRS). Adversary hearings are held within two weeks of removal to determine whether children should return to their homes and whether to restrict parental rights. Status hearings may be held within 60 days of removal to review children's status and the department's placement plans.

If DPRS is appointed temporary managing conservator, the agency is required to develop a permanency plan, which is an evaluation of the child's needs and possible long-term placement options. Initial permanency hearings must be held not later than 180 days after removal to determine whether children return home, are placed in a relative's home or foster care, or are adopted. Sec. 264.205 creates swift adoption teams, made up of DPRS personnel, to expedite the adoption of children who are in DPRS custody.
- DIGEST:** HB 1266, as amended, would require judges in adversary placement hearings to compel displaced children's custodial parents, alleged fathers, or relatives to provide information on the whereabouts of other parents or relatives. In status and permanency hearings, judges would have to determine whether these parties have given DPRS sufficient information to locate other parents,

alleged fathers, or relatives of children removed from their homes. The bill also would specify that swift adoption teams must expedite the process of placing children in DPRS custody with appropriate relatives.

This bill would take effect September 1, 2001. It would apply only to children in DPRS custody on or after that date.

**SUPPORTERS
SAY:**

HB 1266 would help speed up the placement and/or adoption of children in DPRS custody by requiring all caregivers, not just parents, to help DPRS locate possible fathers and other relatives of the children involved.

Currently, only parents must give DPRS information on the whereabouts of other parents. Although the rules of legal discovery typically are used to obtain information from and about other relatives, this can take up to 30 days. This bill would make that information more readily available from the outset. It is standard procedure in other states, and the federal government requires it when determining eligibility for foster-care funding.

Most custody and placement cases involve the caregivers with whom the displaced children live, but those persons may not be the children's parents. DPRS usually prefers to place children with relatives if they are otherwise qualified and suitable. Although current law requires disclosure of all the children's previous addresses, it is unclear whether caregivers are obligated to help locate other relatives. Identifying and locating all relatives as soon as possible increases the likelihood of placing children with family members while reducing the time and trauma involved.

HB 1266 would give family law judges the statutory support to gather complete and accurate information about family supports before making their determination in placement hearings. Judges want and need to hear from as many individuals as possible who have ongoing relationships with the children being placed. Typically this is not privileged information, but judges still would have discretion to determine if individuals have good cause not to divulge it.

Relatives would have priority under the swift adoption team program. Limiting placement to appropriate relatives would allow DPRS to continue to screen out undesirable individuals with criminal histories or other questionable backgrounds or circumstances.

OPPONENTS
SAY:

HB 1266 is not necessary. The discovery process and DPRS procedures already are accomplishing the goals of the legislation.

Caregivers who do not have parental rights should not be given parents' legal responsibilities. They should not have to disclose information about individuals with whom they have a privileged or estranged relationship. This could create ethical or personal problems for them, or for the relatives, that neither of them would experience were they not involved in a child placement situation. This could force them to choose between a negative consequence (making an adoptive parent reveal the name of an anonymous birth mother, for example) and a contempt of court citation.

NOTES:

The committee amendment would specify that "custodial" parents must give information about the whereabouts of other parents and relatives and that swift adoption teams place children with an "appropriate" relative.