

BILL ANALYSIS

Senate Research Center

S.B. 939
By: Watson
Education
9/30/2009
Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Texas Education Agency (TEA) collects data from all districts in Texas using the Public Education Information Management System (PEIMS). PEIMS encompasses all data requested and received by TEA about public education, including student demographic and academic performance, and personnel, financial, and organizational information. PEIMS collects information from Texas school districts using a list of data elements coded for unique attributes for students, but there is no code for foster children.

If TEA tracked foster children in PEIMS, it could provide aggregate data, including how many foster children are in special education and other services, the number of foster children within a school district, or the number of foster children subject to disciplinary action. TEA already codes children who fall within the definition of homeless or at-risk and are part of an educational program to ensure that they achieve academic success. Although TEA only takes a snapshot of Texas students during each year, which fails to fully track the transitory foster children population, PEIMS data is currently the best source of educational information for foster children.

S.B. 939 amends current law relating to benefits and services for children in the conservatorship of the Department of Family and Protective Services (DFPS), including the exchange of information by DFPS regarding students in foster care.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Department of Family and Protective Services in SECTION 4 (Section 263.3025, Family Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter B, Chapter 7, Education Code, by adding Section 7.029, as follows:

Sec. 7.029. MEMORANDUM OF UNDERSTANDING REGARDING EXCHANGE OF INFORMATION FOR STUDENTS IN FOSTER CARE. (a) Requires the Texas Education Agency (TEA) and the Department of Family and Protective Services (DFPS) to enter into a memorandum of understanding regarding the exchange of information as appropriate to facilitate DFPS's evaluation of educational outcomes of students in foster care. Requires that the memorandum of understanding require:

- (1) DFPS to provide TEA each year with demographic information regarding individual students who during the preceding school year were in the conservatorship of DFPS following an adversarial hearing under Section 262.201 (Full Advisory Hearing; Findings of the Court), Family Code; and
- (2) TEA, in a manner consistent with federal law, to provide DFPS with aggregate information regarding educational outcomes of students for whom TEA received demographic information under Subdivision (1).

(b) Provides that, for purposes of Subsection (a)(2), information regarding educational outcomes includes information relating to student academic

achievement, graduation rates, school attendance, disciplinary actions, and receipt of special education services.

(c) Authorizes DFPS to authorize TEA to provide education research centers established under Section 1.005 (Education Research Centers; Sharing Student Information) with demographic information regarding individual students received by TEA in accordance with Subsection (a)(1), as appropriate to allow the centers to perform additional analysis regarding educational outcomes of students in foster care. Requires that any use of information regarding individual students provided to a center under this subsection be approved by DFPS.

(d) Provides that nothing in this section can be construed to require TEA or DFPS to collect or maintain additional information regarding students in foster care or allow the release of information regarding an individual student in a manner not permitted under the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g) or another state or federal law.

SECTION 2. Amends Section 54.211, Education Code, as follows:

Sec. 54.211. EXEMPTIONS FOR STUDENTS IN FOSTER OR OTHER RESIDENTIAL CARE. (a) Exempts a student from the payment of tuition and fees authorized in this chapter if the student was in the conservatorship of DFPS, rather than in foster care or other residential care under the conservatorship of DFPS, on the day preceding the student's 18th birthday; on or after the day of the student's 14th birthday, if the student was also eligible for adoption on or after that day; on the day the student graduated from high school or received the equivalent of a high school diploma; or on the day preceding the date the student is adopted, if that date is on or after September 1, 2009, or the date permanent managing conservatorship of the student is awarded to a person other than the student's parent, if that date is on or after September 1, 2009; and enrolls in an institution of higher education as an undergraduate student not later than the student's 25th, rather than 21st, birthday. Deletes existing text requiring that the student enroll in an institution of higher education as an undergraduate student not later than the third anniversary of the date the student was discharged from the foster or other residential care, the date the student graduated from high school, or the date the student received the equivalent of a high school diploma, whichever date is earliest. Makes nonsubstantive changes.

(b) Requires TEA and the Texas Higher Education Coordinating Board to develop outreach programs to ensure that students in the conservatorship of DFPS and in grades 9-12 are aware of the availability of the exemption from the payment of tuition and fees provided by this section. Makes a conforming change.

SECTION 3. Amends Section 261.312(b), Family Code, as follows:

(b) Provides that a review team consists of at least five members who serve staggered two-year terms. Provides that review team members are appointed by the director of DFPS and consist of volunteers who live in and are broadly representative of the region in which the review team is established and have expertise in the prevention and treatment of child abuse and neglect. Requires that at least two members of a review team be parents who have not been convicted of or indicted for an offense involving child abuse or neglect, have not been determined by DFPS to have engaged in child abuse or neglect, and are not under investigation by DFPS for child abuse or neglect. Deletes existing text providing that review team consist of community representatives and private citizens who live in the region for which the team is established and that requires each member to be a parent who has not been convicted of or indicted for an offense involving child abuse or neglect, has not been determined by DFPS to have engaged in child abuse or neglect, or is not under investigation by DFPS for child abuse or neglect.

SECTION 4. Amends Section 263.3025, Family Code, by adding Subsection (d), to require that a child's permanency plan, in accordance with DFPS rules, include concurrent permanency goals consisting of a primary permanency goal and at least one alternate permanency goal.

SECTION 5. Amends Subchapter D, Chapter 263, Family Code, by adding Section 263.3026, as follows:

Sec. 263.3026. PERMANENCY GOALS; LIMITATION. (a) Authorizes DFPS's permanency plan for a child to include as a goal the reunification of the child with a parent or other individual from whom the child was removed; the termination of parental rights and adoption of the child by a relative or other suitable individual; the award of permanent managing conservatorship of the child to a relative or other suitable individual; or another planned, permanent living arrangement for the child.

(b) Requires DFPS, if the goal of DFPS's permanency plan for a child is to find another planned, permanent living arrangement for the child, to document that there is a compelling reason why the other permanency goals identified in Subsection (a) are not in the child's best interest.

SECTION 6. Amends Section 263.303(b), Family Code, to require that the permanency progress report include certain information, including describing the permanency plan for the child and recommending actions necessary to ensure that a final order consistent with that permanency plan, including the concurrent permanency goals contained in that plan, is rendered before the date for dismissal of the suit under this chapter.

SECTION 7. Amends Section 263.306(b), Family Code, to require the court to also review the service plan, permanency report, and other information submitted at the hearing to determine certain circumstances concerning the child, including whether DFPS has made reasonable efforts to finalize the permanency plan that is in effect for the child, including the concurrent permanency goals for the child. Makes a nonsubstantive change.

SECTION 8. Amends Section 263.501(b), Family Code, to require the court, if DFPS has been named as a child's managing conservator in a final order that terminates a parent's parental rights, to conduct a placement review hearing not later than the 90th day after the date the court renders the final order. Requires the court to conduct additional placement review hearings at least once every six months until the date the child is adopted or the child becomes an adult. Makes nonsubstantive changes.

SECTION 9. Amends Section 263.502, Family Code, by amending Subsection (c) and adding Subsection (d), as follows:

(c) Requires that the placement review report identify DFPS's permanency goal for the child and contain certain information regarding the child's placement, including a transition, rather than discharge, plan for a child who is at least 16 years of age that identifies the services and specific tasks that are needed to assist the child in making the transition from substitute care to adult living and describes the services that are being provided through the Transitional Living Services Program operated by DFPS, rather than the services that are available through the Preparation for Adult Living Program operated by DFPS; and for a child for whom DFPS has been named managing conservator in a final order that does not include termination of parental rights, describe the efforts of DFPS to find a permanent placement for the child, including efforts to work with the caregiver with whom the child is placed to determine whether that caregiver is willing to become a permanent placement for the child; locate a relative or other suitable individual to serve as permanent managing conservator of the child; and evaluate any change in a parent's circumstances to determine whether the child can be returned to the parent, or parental rights should be terminated. Makes a nonsubstantive change.

(d) Requires that the placement review report, if the goal of DFPS's permanency plan for a child is to find another planned, permanent living arrangement, to document a compelling reason why adoption, permanent managing conservatorship with a relative or

other suitable individual, or returning the child to a parent are not in the child's best interest.

SECTION 10. Amends Section 263.503, Family Code, as follows:

Sec. 263.503. PLACEMENT REVIEW HEARINGS; PROCEDURE. (a) Creates this subsection from existing text. Requires the court, at each placement review hearing, to determine whether, for a child for whom DFPS has been named managing conservator in a final order that does not include termination of parental rights, a permanent placement, including appointing a relative as permanent managing conservator or returning the child to a parent, is appropriate for the child; and for a child whose permanency goal is another planned, permanent living arrangement, DFPS has documented a compelling reason why adoption, permanent managing conservatorship with a relative or other suitable individual, or returning the child to a parent is not in the child's best interest; and identified a family or other caring adult who has made a permanent commitment to the child. Makes nonsubstantive changes.

(b) Authorizes the court, for a child for whom DFPS has been named managing conservator in a final order that does not include termination of parental rights, to order DFPS to provide services to a parent for not more than six months after the date of the placement review hearing if 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 the court determines that further efforts at reunification with a parent are in the best interest of the child, and likely to result in the child's safe return to the child's parent.

SECTION 11. Requires TEA and DFPS to enter into the memorandum of understanding required by Section 7.029, Education Code, as added by this Act, not later than January 1, 2010.

SECTION 12. (a) Provides that the changes in law made by this Act to Section 54.211, Education Code, apply beginning with tuition and fees imposed by a public institution of higher education for the 2009 fall semester. Provides that tuition and fees for a term or semester before the 2009 fall semester are covered by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

(b) Provides that the change in law made by this Act to Section 263.501(b), Family Code, applies only to a child in the conservatorship of DFPS for whom a final order in a suit affecting the parent-child relationship is rendered on or after the effective date of this Act. Provides that a child in the conservatorship of DFPS for whom a final order in a suit affecting the parent-child relationship is rendered before the effective date of this Act is governed by the law in effect on the date the final order was rendered, and the former law is continued in effect for that purpose.

SECTION 13. Provides that notwithstanding any other provision of this Act providing an effective date of this Act, this section and the section of this Act that amends Section 54.211, Education Code, take effect immediately if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. Provides that if this Act does not receive the vote necessary for immediate effect, those sections take effect September 1, 2009.

SECTION 14. Effective date: upon passage or September 1, 2009.