

## **BILL ANALYSIS**

Senate Research Center

H.B. 7  
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Health & Human Services  
5/16/2017  
Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

H.B. 7 is an omnibus bill, which impacts nearly every aspect of a suit involving a parent-child relationship. Broadly, the bill requires the Department of Family and Protective Services (DFPS) and the courts to spend more time evaluating risk and weighing the best interest of the child. In order to accomplish these goals, the bill provides additional opportunities for families and caregivers to give testimony regarding placements. It requires DFPS and the court to routinely look for kinship placements throughout the child's time in the custody of the state. It encourages courts to continue the appointment of guardian ad litem and attorney ad litem for children, and asks that those representatives periodically check in on the children they represent. Caregivers and parents are invited to converse with the ad litem and are provided the opportunity to testify during permanency reviews.

In order to balance this bill with protections for parents, several sections in H.B. 7 clarify that the state may not remove a child or terminate parental rights if the parents have chosen to homeschool, have engaged in reasonable discipline, are economically disadvantaged, have refused vaccinations, or have administered medical cannabis or low-THC treatments. The bill provides several opportunities for families to request small extensions from the court in order to obtain legal counsel or complete the requirements in a service plan. Additionally, cases which have lingered without resolution for a calendar year are automatically dismissed.

Suits to terminate or intervene in a parent-child relationship are understandably complicated, and H.B. 7 aims to provide all parties with the clarity and evidence needed to make the best decisions for the children who have been impacted.

H.B. 7 amends current law relating to child protective services suits, motions, and services by the Department of Family and Protective Services.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 17 (Section 262.116, Family Code) and SECTION 18 (Section 262.116, Family Code) of this bill.

Rulemaking authority is expressly granted to the Texas Supreme Court in SECTION 30 (Section 263.4055, Family Code) of this bill.

Rulemaking authority is expressly granted to HHSC in SECTION 46 of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 58.0052, Family Code, by adding Subsection (b-1), as follows:

(b-1) Requires the Department of Family and Protective Services (DFPS) and the Texas Juvenile Justice Department (TJJJD), in addition to the information provided under Subsection (b) (relating to requiring a juvenile service provider to disclose certain information to another provider), to coordinate and develop protocols for sharing with each other, on request, any other 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.

SECTION 2. Amends Section 102.004, Family Code, by amending Subsection (b) and adding Subsection (b-1), as follows:

(b) Authorizes the court to grant a grandparent or other person, subject to the requirements of Subsection (b-1) if applicable, deemed by the court to have had substantial past contact with the child leave to intervene in a pending suit filed by a person to do so under this chapter (Filing Suit), rather than this subchapter.

(b-1) Authorizes a foster parent to only be granted leave to intervene under Subsection (b) if the foster parent would have standing to file an original suit as provided by Section 102.003(a)(12) (relating to authorizing an original suit to be filed at any time by a person who is the foster parent of a child who meets certain conditions).

SECTION 3. Amends Section 105.002, Family Code, by adding Subsection (d), as follows:

(d) Requires DFPS in collaboration with interested parties, including the Permanent Judicial Commission for Children, Youth and Families, to 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 (SAPCRs) filed by DFPS. Provides that this subsection expires September 1, 2019.

SECTION 4. Amends Sections 107.002(b) and (c), Family Code, as follows:

(b) Requires a guardian ad litem appointed for the child under this chapter (Special Appointments, Child Custody Evaluations, and Adoption Evaluations), to:

(1) within a reasonable time after the appointment, interview, in addition to certain other persons, each person who has significant knowledge of the child's history and condition, including educators, child welfare service providers, and any foster parent of the child;

(2) through (5) makes no changes to these subdivisions.

(c) Provides that a guardian ad litem appointed for a child under this chapter is entitled to:

(1) through (4) makes no changes to these subdivisions;

(5) and (6) makes nonsubstantive changes to these subdivisions;

(7) have access to the child in the child's placement;

(8) be consulted and provide comments on decisions regarding placement, including kinship, foster care, and adoptive placements;

(9) receive notification regarding and an invitation to attend meetings related to the child's service plan and a copy of the plan; and

(10) attend court-ordered mediation regarding the child's case.

SECTION 5. Amends Section 107.004, Family Code, by adding Subsection (d-3), to require an attorney ad litem appointed to represent a child in the managing conservatorship of DFPS to periodically continue to review the child's safety and well-being, including any effects of trauma to the child, and take appropriate action, including requesting a review hearing when necessary to address an issue of concern.

SECTION 6. Amends Section 107.016, Family Code, as follows:

Sec. 107.016. CONTINUED REPRESENTATION; DURATION OF APPOINTMENT. Provides that, in a suit filed by a governmental entity in which termination of the parent-child relationship or appointment of the entity as conservator of the child is requested:

(1) an order appointing DFPS as the child's managing conservator may provide for the continuation of the appointment of the guardian ad litem for the child, rather than of the guardian ad litem or attorney ad litem for the child, for any period during the time the child remains in the conservatorship of DFPS, as set by the court;

(2) subject to Section 263.4042, an order appointing DFPS as the child's managing conservator is required to provide for the continuation of the appointment of the attorney ad litem for the child as long as the child remains in the conservatorship of DFPS; and

(3) creates this subdivision from existing text and makes no further changes to this subdivision.

SECTION 7. Amends Section 154.001(b), Family Code, as follows:

(b) Authorizes the court, unless a court has determined a parent is indigent, to order either or both parents to make periodic payments for the support of a child in a proceeding in which DFPS is named managing conservator, rather than in which the Texas Department of Protective and Regulatory Services (DPRS) is named temporary managing conservator. Deletes exiting text requiring the court, in a proceeding in which the DPRS is named permanent managing conservator of a child whose parents' rights have not been terminated, to order each parent that is financially able to make periodic payments for the support of the child.

SECTION 8. Amends Section 155.201, Family Code, by adding Subsection (d), to require the court of continuing, exclusive jurisdiction, on receiving notice that a court exercising jurisdiction under Chapter 262 (Procedures in Suit by Governmental Entity to Protect Health and Safety of Child) has ordered the transfer of a suit under Section 262.203(a)(2), to, pursuant to the requirements of Section 155.204(i), transfer the proceedings to the court in which the suit under Chapter 262 is pending.

SECTION 9. Amends Section 155.204(i), Family Code, as follows:

(i) Requires DFPS, rather than authorizes a party, if a transfer order has been signed by a court exercising jurisdiction under Chapter 262, to file the transfer order with the clerk of the court of continuing, exclusive jurisdiction. Requires 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, to transfer the files as provided by this subchapter (Transfer of Continuing, Exclusive Jurisdiction).

SECTION 10. (a) Amends Section 161.001, Family Code, by adding Subsections (c), (d), and (e), as follows:

(c) Prohibits a court from making a finding under Subsection (b) (relating to authorizing the court to order termination of the parent-child relationship if the court makes certain findings by clear and convincing evidence) and order termination of the parent-child relationship based on evidence that the parent took certain actions or meets certain criteria.

(d) Prohibits a court from ordering termination under Subsection (b)(1)(O) (relating to authorizing the court to order termination of the parent-child relationship if the court finds that the parent has failed to comply with certain court provisions) based on the failure by the parent to comply with a specific provision of a court order if a parent proves by a preponderance of evidence that:

(1) the parent was unable to comply with specific provisions of the court order; and

(2) the parent made a good faith effort to comply with the order and the failure to comply with the order is not attributable to any fault of the parent.

(e) Provides that this section (Involuntary Termination of Parent-Child Relationship) does not prohibit DFPS from offering evidence described by Subsection (c) as part of an action to terminate the parent-child relationship under this subchapter (Grounds).

(b) Provides that this section takes effect only if H.B. No. 2107, Acts of the 85th Legislature, Regular Session, 2017, or similar legislation authorizing the use of medical cannabis is enacted and becomes law. Provides that, if H.B. No. 2107, Acts of the 85th Legislature, Regular Session, 2017, or similar legislation authorizing the use of medical cannabis is not enacted or does not become law, this section has no effect.

SECTION 11. (a) Amends Section 161.001, Family Code, by adding Subsections (c), (d), and (e), as follows:

(c) Prohibits a court from making a finding under Subsection (b) and order termination of the parent-child relationship based on evidence that the parent took certain actions or meets certain criteria.

(d) Prohibits a court from ordering termination under Subsection (b)(1)(O) based on the failure by the parent to comply with a specific provision of a court order if a parent proves by a preponderance of evidence that:

(1) the parent was unable to comply with specific provisions of the court order; and

(2) the parent made a good faith effort to comply with the order and the failure to comply with the order is not attributable to any fault of the parent.

(e) Provides that this section does not prohibit DFPS from offering evidence described by Subsection (c) as part of an action to terminate the parent-child relationship under this subchapter.

(b) Provides that this section takes effect only if H.B. No. 2107, Acts of the 85th Legislature, Regular Session, 2017, or similar legislation authorizing the use of medical cannabis is not enacted or does not become law. Provides that, if H.B. No. 2107, Acts of the 85th Legislature, Regular Session, 2017, or similar legislation authorizing the use of medical cannabis is enacted and becomes law, this section has no effect.

SECTION 12. Amends Section 161.206, Family Code, by adding Subsection (a-1), to authorize the court, in a suit filed by DFPS seeking termination of the parent-child relationship for more than one parent of the child, to 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.

SECTION 13. Amends Chapter 261, Family Code, by adding Subchapter F, 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. Authorizes DFPS to file an application for a protective order for a child's protection under this subchapter on DFPS's own initiative or

jointly with a parent, relative, or caregiver of the child who requests the filing of the application if DFPS:

- (1) has temporary managing conservatorship of the child;
- (2) determines that the child meets certain requirements; and
- (3) is not otherwise authorized to apply for a protective order for the child's protection under Chapter 82 (Applying for Protective Order).

Sec. 261.502. CERTIFICATION OF FINDINGS. (a) Requires DFPS, in making the application under this subchapter, to certify that:

- (1) DFPS has diligently searched for certain persons or located and provided notice of the proposed application to certain persons; 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) Authorizes an application for a temporary ex parte order under Section 261.503 to be filed without making the findings required by Subsection (a) if DFPS certifies that DFPS believes that there is an immediate danger of abuse or neglect to the child.

Sec. 261.503. TEMPORARY EX PARTE ORDER. Authorizes the court, 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, to, without further notice to the respondent and without a hearing, enter a temporary ex parte order for the protection of the child.

Sec. 261.504. REQUIRED FINDINGS; ISSUANCE OF PROTECTIVE ORDER. (a) Requires the court, at the close of a hearing on an application for a protective order under this subchapter, to find whether there are reasonable grounds to believe that:

- (1) the child is a victim of abuse or neglect or has a history of being abused or neglected; and
- (2) there is a certain threat to the child or to the child's caregiver.

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

Sec. 261.505. APPLICATION OF OTHER LAW. Provides that, to the extent applicable, except as otherwise provided by this subchapter, Title 4 (Protective Orders and Family Violence) applies to a protective order issued under this subchapter.

SECTION 14. Amends Subchapter A, Chapter 262, Family Code, by adding Section 262.0022, as follows:

Sec. 262.0022. REVIEW OF PLACEMENT; FINDINGS. Requires the court, at each hearing under this chapter, 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 as defined by Section 264.751 (Definitions). 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.

SECTION 15. Amends Subchapter A, Chapter 262, Family Code, by adding Sections 262.013 and 262.014, as follows:

Sec. 262.013. VOLUNTARY TEMPORARY MANAGING CONSERVATORSHIP. Provides that, in a SAPCR 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.

Sec. 262.014. DISCLOSURE OF CERTAIN EVIDENCE. Requires DFPS, on the request of the attorney for a parent who is a party in a SAPCR filed under this chapter, or the attorney ad litem for the parent's child, before the full adversary hearing, to provide certain information and documents.

SECTION 16. Amends Section 262.113, Family Code, as follows:

Sec. 262.113. FILING SUIT WITHOUT TAKING POSSESSION OF CHILD. Requires that an original suit filed by a governmental entity that requests to take possession of a child after notice and a hearing 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, rather than reasonable efforts have been made to prevent or eliminate the need to remove the child from the child's home and allowing the child to remain in the home would be contrary to the child's welfare. Creates this subdivision from existing text.

SECTION 17. (a) Amends Subchapter B, Chapter 262, Family Code, by adding Section 262.116, as follows:

Sec. 262.116. LIMITS ON REMOVAL. (a) Prohibits DFPS from taking possession of a child under this subchapter (Taking Possession of Child) based on evidence that the parent has taken certain actions or meets certain criteria.

(b) Requires DFPS to train child protective services (CPS) caseworkers regarding the prohibitions on removal provided under Subsection (a).

(c) Authorizes the executive commissioner of the Health and Human Services Commission (executive commissioner; HHSC) to adopt rules to implement this section.

(d) Provides that this section does not prohibit DFPS from offering evidence described by Subsection (a) as part of an action to take possession of a child under this subchapter.

(b) Provides that this section takes effect only if H.B. No. 2107, Acts of the 85th Legislature, Regular Session, 2017, or similar legislation authorizing the use of medical cannabis is enacted and becomes law. Provides that, if H.B. No. 2107, Acts of the 85th Legislature, Regular Session, 2017, or similar legislation authorizing the use of medical cannabis is not enacted or does not become law, this section has no effect.

SECTION 18. (a) Amends Subchapter B, Chapter 262, Family Code, by adding Section 262.116, as follows:

Sec. 262.116. LIMITS ON REMOVAL. (a) Prohibits DFPS from taking possession of a child under this subchapter based on evidence that the parent has taken certain actions or meets certain criteria.

(b) Requires DFPS to train CPS caseworkers regarding the prohibitions on removal provided under Subsection (a).

(c) Authorizes the executive commissioner to adopt rules to implement this section.

(d) Provides that this section does not prohibit DFPS from offering evidence described by Subsection (a) as part of an action to take possession of a child under this subchapter.

(b) Provides that this section takes effect only if H.B. No. 2107, Acts of the 85th Legislature, Regular Session, 2017, or similar legislation authorizing the use of medical cannabis is enacted and becomes law. Provides that, if H.B. No. 2107, Acts of the 85th Legislature, Regular Session, 2017, or similar legislation authorizing the use of medical cannabis is not enacted or does not become law, this section has no effect.

SECTION 19. Amends Section 262.201, Family Code, by adding Subsection (a-5), as follows:

(a-5) Authorizes the court, if a parent who is not indigent appears in opposition to the suit, for good cause shown, to 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. Provides that a postponement under this subsection is subject to the limits and requirements prescribed by Subsection (a-3) (relating to authorizing the court to limit or set certain requirements for the full adversary hearing under certain conditions).

SECTION 20. Amends Section 262.203(a), Family Code, as follows:

(a) Requires the court that rendered the temporary order, on the motion of a party or the court's own motion, if applicable, to, in accordance with procedures provided by Chapter 155 (Continuing, Exclusive Jurisdiction; Transfer):

(1) transfer the suit to the court of continuing, exclusive jurisdiction, if any, if the court finds that the transfer is necessary for the convenience of the parties and in the best interest of the child;

(2) order transfer of the suit from the court of continuing, exclusive jurisdiction, rather than if grounds exist for mandatory transfer from the court of continuing, exclusive jurisdiction under Section 155.201 (Mandatory Transfer), order transfer of the suit from that court; or

(3) makes no changes to this subdivision.

SECTION 21. Amends Subchapter C, Chapter 262, Family Code, by adding Section 262.206, as follows:

Sec. 262.206. EX PARTE HEARINGS PROHIBITED. Prohibits a hearing held by a court in a suit under this chapter, unless otherwise authorized by this chapter or other law, from being ex parte.

SECTION 22. Amends Section 263.002, Family Code, as follows:

Sec. 263.002. New heading: REVIEW OF PLACEMENTS BY COURT; FINDINGS. (a) Creates this subsection from existing text and makes no further changes to this subsection.

(b) Requires the court, at each hearing under this chapter (Review of Placement of Children Under Care of Department of Family and Protective Services), 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 as defined by Section 264.751. Requires the court to include in its findings a statement whether DFPS placed the child with a relative or other designated caregiver.

(c) Requires the court, at the permanency hearing before a final order under this chapter, to review the placement of each child in the temporary or permanent managing conservatorship of DFPS who has not been returned to the child's home. Requires the court to make a finding as to any continuing danger to the physical health or safety of the child in the home, whether the return is in the best interest of the child, and whether it is contrary to the welfare of the child for the child to return home.

SECTION 23. Amends Section 263.0021, Family Code, by adding Subsections (e) and (f), as follows:

(e) Requires that notice of a hearing under this chapter provided to an individual listed under Subsection (b)(2) (relating to providing that certain persons are entitled to a certain notice of a hearing under this chapter and to present evidence and be heard at the hearing) state that the individual may, but is not required to, attend the hearing and may request to be heard at the hearing.

(f) Requires the court, in a hearing under this chapter, to call an individual listed under Subsection (b)(2) and authorizes the individual, at the individual's discretion, to appear at the hearing and present evidence and be heard regardless of whether either party calls the individual to testify. Authorizes the individual, if the individual testifies at the hearing, to be cross-examined by either party.

SECTION 24. Amends Section 263.102, Family Code, by amending Subsection (b) and adding Subsections (c) and (c-1), as follows:

(b) Requires that the service plan include a statement to the parent and sets forth the language of the statement. Makes a nonsubstantive change.

(c) Prohibits a service plan from including an allegation of abuse or neglect of the child or a restatement of the facts of the case. Provides that 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) Requires DFPS, not later than a certain date, 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.

SECTION 25. (a) Amends Section 263.306(a-1), Family Code, to conform to the amendment of Section 263.306(a), Family Code, by Chapter 697 (H.B. 825), Acts of the 84th Legislature, Regular Session, 2015, as follows:

(a-1) Requires the court, at each permanency hearing before a final order is rendered, to:

(1) identify all persons and parties present at the hearing, determine whether the child's caregiver is present, and allow the caregiver to testify if the caregiver wishes to provide information about the child;

(2) makes no changes to this subdivision;



(3) 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;

(4) creates this subdivision from existing text and makes no further changes to this subdivision;

(5) through (8) redesignates existing Subdivisions (4) through (7) as Subdivisions (5) through (8) and makes no further changes to these subdivisions.

(b) Amends Section 263.306(c), Family Code, to conform to the amendment of Section 263.306, Family Code, by Chapter 944 (S.B. 206), Acts of the 84th Legislature, Regular Session, 2015, to change a reference to Subsection (a) to Subsection (a-1).

(c) Repealer: Section 263.306(a) (relating to requiring the court to take certain actions at each permanency hearing), Family Code, to conform to the repeal of Section 263.306(a), Family Code, by Chapter 944 (S.B. 206), Acts of the 84th Legislature, Regular Session, 2015.

SECTION 26. Amends Section 263.401, Family Code, as follows:

Sec. 263.401. DISMISSAL AFTER ONE YEAR; NEW TRIALS; EXTENSION. (a) Provides that, unless the court has commenced the trial on the merits or granted a certain extension, on a certain date, the court's jurisdiction over, rather than requires the court to dismiss, the SAPCR filed by DFPS that requests termination of the parent-child relationship or requests that DFPS be named conservator of the child is terminated and the suit is automatically dismissed without a court order.

(b) Requires the court, if the court retains the suit on the court's docket, to render an order in which the court, in addition to certain other actions, schedules the new date on which the suit will be automatically dismissed, rather than dismissed, if the trial on the merits has not commenced, which date must be not later than a certain date.

(b-1) Requires the court, under certain conditions, to retain the suit on the court's docket and render an order in which the court, among certain other actions, schedules a new date on which the suit will be automatically dismissed if the new trial has not commenced, which is required to be not later than a certain date.

(c) Provides that, 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 the suit is terminated and the suit is automatically dismissed without a court order, rather than requires the court, 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, to dismiss the suit.

SECTION 27. Amends Section 263.402, Family Code, as follows:

Sec. 263.402. New heading: LIMIT ON EXTENSION. Deletes existing designation as Subsection (a). Deletes existing Subsection (b) providing that a party to a suit under this chapter who fails to make a timely motion to dismiss the suit under this subchapter (Final Order for Child Under Department Care) waives the right to object to the court's failure to dismiss the suit, providing that a motion to dismiss under this subsection is timely if the motion is made before the trial on the merits commences.

SECTION 28. Amends Section 263.403, Family Code, by amending Subsections (a) and (c) and adding Subsection (a-1), as follows:

(a) Authorizes the court, notwithstanding Section 263.401, to 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) makes no changes to this subdivision;

(2) orders DFPS to:

(A) creates this paragraph from existing text and makes a nonsubstantive change; or

(B) transition the child, according to a schedule determined by DFPS 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) and (4) makes no changes to these subdivisions.

(a-1) Authorizes DFPS or the parent 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) Requires the court, at the time of the move or order, if before the dismissal of the suit or the commencement of the trial on the merits a child placed with a parent is required to be moved from that home by DFPS or the court renders a temporary order terminating the transition order issued under Subsection (a)(2)(B), to schedule a new date for dismissal of the suit, rather than requires the court, at the time of the move, if a child placed with a parent is required to be moved from that home by DFPS before the dismissal of the suit or the commencement of the trial on the merits, to schedule a new date for dismissal of the suit unless a trial on the merits has commenced. Prohibits the new dismissal date from being 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, rather than after the date the child is moved, under this subsection, whichever date is later.

SECTION 29. Amends Subchapter E, Chapter 263, Family Code, by adding Section 263.4042, as follows:

Sec. 263.4042. CONTINUED APPOINTMENT OF ATTORNEY AD LITEM AFTER FINAL ORDER. (a) Authorizes the court, on the entry of a final order terminating the parent-child relationship and naming DFPS as the child's managing conservator, to discharge the attorney ad litem appointed for the child if the court finds that:

(1) the child has a representative authorized by the court to represent the legal interests of the child and discharge of the attorney ad litem is in the child's best interest; or

(2) the child resides in the home identified in the child's permanency plan as the child's permanent home, has an attorney ad litem or guardian ad litem who does not object to the child's permanency plan, and has resided in the home described by Paragraph (A) (relating to providing that the child resides in the home identified in the child's permanency plan as the child's permanent home) for at least three months.

(b) Requires the court, if a court renders an order discharging a child's attorney ad litem under Subsection (a), at each permanency hearing following the final order held under Section 263.501 (Permanency Hearing After Final Order), to make the findings required by Section 263.5031.

SECTION 30. Amends Subchapter E, Chapter 263, Family Code, by adding Section 263.4055, as follows:

Sec. 263.4055. SUPREME COURT RULES. Requires the Texas Supreme Court, by rule, to establish civil and appellate procedures to address 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 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.

SECTION 31. Amends Section 263.5031, Family Code, as follows:

Sec. 263.5031. PERMANENCY HEARINGS FOLLOWING FINAL ORDER. (a) Creates this subsection from existing text. Requires the court, at each permanency hearing after the court renders a final order, to:

- (1) identify all persons and parties present at the hearing, determine whether the child's caregiver is present, and allow the caregiver to testify if the caregiver wishes to provide information about the child, rather than identify all persons and parties present at the hearing;
- (2) makes a nonsubstantive change to this subdivision;
- (3) review the permanency progress report to determine:
  - (A) makes no changes to this paragraph;
  - (B) whether DFPS 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 continued to be in the best interest of the child;
  - (C) through (K) makes no changes to these paragraphs; and
- (4) if the child is 16 years of age or older, determine whether DFPS has provided the child with certain documents and information.

(b) Provides that the court, at each permanency hearing after the court renders a final order:

- (1) for a child who is not represented by an attorney ad litem, is required to determine whether the child requires representation by an attorney ad litem under Section 107.016 (Continued Representation; Duration of Appointment) and, if the court declines to appoint an attorney ad litem for the child, state the reason for declining to appoint an attorney ad litem; and
- (2) for a child who is represented by an attorney ad litem, is required to consider the need for continued appointment of the attorney ad litem for the child and is authorized to discharge the attorney ad litem appointed for the child if the court finds that the child meets certain criteria.

SECTION 32. Amends Section 264.018, Family Code, by amending Subsection (f) and adding Subsections (f-1), (f-2), and (f-3), as follows:

(f) Creates an exception under Subsection (f-1) or (f-2).

(f-1) Requires DFPS, as soon as possible after DFPS becomes aware of a change in placement of a child in the conservatorship of DFPS, 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. Requires the managed care organization, in coordination with DFPS, to give notice of the placement change to the primary care physician listed in the child's health passport.

(f-2) 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 the conservatorship of DFPS, to give notice of the impending placement change and the reason given for the placement change to certain persons.

(f-3) 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 the conservatorship of DFPS from the foster home, to give notice of the impending placement change to certain persons.

SECTION 33. Amends Section 264.121, Family Code, by adding Subsections (a-3), (a-4), and (a-5), as follows:

(a-3) Requires DFPS to conduct an independent living skills assessment for all youth in DFPS's permanent managing conservatorship who are 16 years of age or older. Authorizes DFPS to conduct a skills assessment for all youth in DFPS's permanent managing conservatorship who are at least 14 years of age and older based on funding, prioritizing youth who have the greatest needs. Requires DFPS to annually update the assessment for each youth in DFPS's conservatorship to determine the independent living skills the youth learned during the preceding year to ensure DFPS's obligation to prepare the youth for independent living has been met.

(a-4) Requires that the annual update of the independent living skills assessment required under Subsection (a-3) 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) Requires DFPS, in coordination with stakeholders, 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. Requires DFPS to report the plan to the legislature not later than December 1, 2018. Provides that this subsection expires September 1, 2019.

SECTION 34. Amends the heading to Chapter 266, Family Code, to read as follows:

**CHAPTER 266. MEDICAL CARE AND EDUCATIONAL SERVICES FOR CHILDREN IN CONSERVATORSHIP OF DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES**

SECTION 35. Amends Chapter 266, Family Code, by adding Section 266.005, as follows:

Sec. 266.005. CONSULTATION FOR HEALTH CARE. (a) Prohibits a court from rendering an order requiring or prohibiting specific health care services, procedures, or treatments, including mental health care services, procedures, or treatments, for a child in the conservatorship of DFPS, unless a health care professional, acting within the scope of the health care professional's practice as prescribed by state law, has been consulted as to the proposed care. Requires the court, if the court finds that a health care professional has been consulted and the court declines to follow the recommendation of the health care professional, to make findings in the record supporting the court's order.

(b) Provides that Subsection (a) does not apply if the court:

(1) finds there is an immediate need for medical or behavioral intervention and there is not time consistent with the circumstances and the child's health, safety, or well-being to consult with a health care professional; or

(2) directs a child to receive an examination or assessment by an appropriate health care professional.

(c) Requires the court, if a court renders an order under circumstances described by Subsection (b)(1), to order consultation with an appropriate health care professional as soon as practicable.

(d) Provides that evidence of a health care professional's recommendation for proposed care under Subsection (a) is not inadmissible on the grounds that it is hearsay evidence or that it is not authenticated if the judge considers the evidence to be otherwise reliable.

SECTION 36. Amends Chapter 122, Government Code, by adding Sections 122.005 and 122.006, as follows:

Sec. 122.005. FAMILY DRUG COURT STUDY. (a) Requires the commissioners court of each county that has not established a family drug court program, not later than September 1, 2018, to, subject to the availability of funds, study the effect the creation of a family drug court would have in the county. Requires the sheriff and, as applicable, the county attorney, district attorney, or criminal district attorney, to assist in conducting the study. Requires that the study analyze the effectiveness of creating a court that specializes in cases in which a parent or person standing in parental relation suffers from drug addiction and the effectiveness of case management used by a family drug court program, including the involvement of certain persons, to rehabilitate a parent or person standing in parental relation who has had a child removed from the parent's or person's care by DFPS or who is under investigation to determine if a child should be removed from the care of the parent or person standing in parental relation by DFPS.

(b) Requires each commissioners court in a county conducting the study required by Subsection (a) to request assistance from certain officials and professionals.

(c) Provides that this section expires January 1, 2019.

Sec. 122.006. GRANT FUNDING FOR FAMILY DRUG COURTS. (a) Provides that the family drug court fund (fund) is a dedicated account in the general revenue fund in the state treasury.

(b) Provides that the fund consists of appropriations of money to the fund by the legislature and gifts, grants, including grants from the federal government, and other donations received for the fund.

(c) Requires HHSC to administer the fund. Authorizes money in the account to be used only to pay counties to establish and administer a family drug court. Requires a county, to receive money from the fund, to submit the study conducted under Section 122.005 on the effect of the creation of a family drug court in the county and a detailed proposal of the establishment of the court.

(d) Provides that grants will only be made when funds are available.

SECTION 37. Amends Subchapter A, Chapter 533, Government Code, by adding Section 533.0056, as follows:

Sec. 533.0056. STAR HEALTH PROGRAM: NOTIFICATION OF PLACEMENT CHANGE. Requires that a contract between a managed care organization and HHSC for the organization to provide health care services to recipients under the STAR Health program require the organization to ensure continuity of care for a child whose placement has been 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 primary care physician and treating specialists to the child's new treating primary care physician and treating specialists, if any.

SECTION 38. Amends Section 572.001, Health and Safety Code, by amending Subsection (c) and adding Subsections (c-2), (c-3), and (c-4), as follows:

(c) Authorizes a person or agency appointed as the guardian or a managing conservator of a person younger than 18 years of age and acting as an employee or agent of the state or a political subdivision of the state to request admission of the person younger than 18 years of age to an inpatient mental health facility, rather than admission of the person younger than 18 years of age only with the person's consent and authorizing the person, if the person does not consent, to be admitted for inpatient services, only as provided by Subsection (c-2) or pursuant to an application for court-ordered mental health services or emergency detention or an order for protective custody.

(c-2) Authorizes DFPS to request the admission to an inpatient mental health facility of a minor in the managing conservatorship of DFPS only if a physician states the physician's opinion, and the detailed reasons for that opinion, that the minor is a person with mental illness or who demonstrates symptoms of a serious emotional disorder and who presents a risk of serious harm to self if not immediately restrained or hospitalized.

(c-3) Provides that the admission to an inpatient mental health facility under Subsection (c-2) of a minor in the managing conservatorship of DFPS is a significant event for purposes of Section 264.018 (Required Notifications), Family Code, and requires DFPS to provide notice of the significant event in accordance with that section to all parties entitled to notice under that section and to the court with continuing jurisdiction before the expiration of three business days after the minor's admission.

(c-4) Requires DFPS periodically to review the need for continued inpatient treatment of a minor admitted to an inpatient mental health facility under Subsection (c-2). Requires DFPS, if following the review DFPS determines there is no longer a need for continued inpatient treatment, to notify the facility administrator designated to detain the minor that the minor may no longer be detained unless an application for court-ordered mental health services is filed.

SECTION 39. Amends Subchapter C, Chapter 42, Human Resources Code, by adding Section 42.066, as follows:

Sec. 42.066. **REQUIRED SUBMISSION OF INFORMATION REQUESTED BY COURT.** Requires 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 under Subtitle E (Protection of the Child), Title 5 (The Parent-Child Relationship and the Suit Affecting the Parent-Child Relationship), Family Code, all information requested by that court.

SECTION 40. Amends the heading to Section 25.07, Penal Code, 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.**

SECTION 41. Amends Section 25.07(a), Penal Code, to provide that a person commits an offense if, in violation of a condition of bond set in certain cases and related to the safety of a victim or the safety of the community, to include, among certain orders, if the temporary ex parte order has been served on the person, Chapter 85 (Issuance of Protective Order), Family Code, or Subchapter F, Chapter 261, Family Code, the person knowingly or intentional performs certain actions.

SECTION 42. Amends the heading to Section 25.072, Penal Code, 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 43. (a) Defines "attorney ad litem" and "commission."

(b) Requires the Permanent Judicial Commission for Children, Youth and Families (commission) to study the appointment and use of attorneys ad litem in cases involving DFPS. Requires the commission to examine certain aspects relating to attorneys ad litem and conduct a survey of attorneys ad litem about the attorney's training, including certain information, perform a statistical analysis of the collected data, and develop policy recommendations for improving the attorney ad litem appointment process.

(c) Requires the commission to prepare a report based on the findings of the study conducted under this section and to submit the report to each member of the legislature not later than September 1, 2018.

SECTION 44. (a) Provides that 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. Provides that 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.

(b) Makes application of Section 263.401, Family Code, prospective.

(c) Provides that, except as otherwise provided by this section, the changes in law made by this Act apply only to a SAPCR filed on or after the effective date of this Act. Provides that a SAPCR 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) Provides that, 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 HHSC 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) Requires a health and human services agency, if necessary for implementation of Section 533.0056, Government Code, as added by this Act, to request a waiver or authorization from a federal agency, and authorizes delay of implementation until such a waiver or authorization is granted.

SECTION 45. Provides that the changes in law made by this Act apply to a SAPCR filed before, on, or after the effective date of this Act.

SECTION 46. Requires HHSC to adopt rules establishing the criteria for awarding a grant to counties to establish a family drug court under Section 122.006, Government Code, as added by this Act, not later than January 1, 2018.

SECTION 47. Provides that, 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 48. Effective date: September 1, 2017.