

Chapter 1025

H.B. No. 1556

AN ACT

relating to the appointment of foster parents and other qualified persons to serve as educational decision-makers for certain children in the conservatorship of the Department of Family and Protective Services.

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

SECTION 1. Section 29.015, Education Code, is amended to read as follows:

Sec. 29.015. SPECIAL EDUCATION DECISION-MAKING FOR CHILDREN IN FOSTER CARE [~~FOSTER PARENTS~~]. (a) [~~The school district shall give preferential consideration to a foster parent of a child with a disability when assigning a surrogate parent for the child.~~

~~(b)~~ A foster parent may act as a parent of a child with a disability, as authorized under 20 U.S.C. Section 1415(b) and its subsequent amendments, if:

(1) the Department of Family and Protective [~~and Regulatory~~] Services is appointed as the temporary or permanent managing conservator of the child;

(2) the rights and duties of the department to make decisions regarding education provided to the child under Section 153.371, Family Code, have not been limited by court order [~~the child has been placed with the foster parent for at least 60 days~~]; and

(3) the foster parent agrees to:

1 (A) participate in making special education  
2 [~~educational~~] decisions on the child's behalf; and

3 (B) complete a training program [~~for surrogate~~  
4 ~~parents~~] that complies with minimum standards established by agency  
5 rule [~~and~~

6 [~~(4) the foster parent has no interest that conflicts~~  
7 ~~with the child's interests~~].

8 (b) A foster parent who will act as a parent of a child with  
9 a disability as provided by Subsection (a) must complete a training  
10 program before the next scheduled admission, review, and dismissal  
11 committee meeting for the child but not later than the 90th day  
12 after the date the foster parent begins acting as the parent for the  
13 purpose of making special education decisions.

14 (b-1) A school district may not require a foster parent to  
15 retake a training program to continue serving as a child's parent or  
16 to serve as the surrogate parent for another child if the foster  
17 parent has completed a training program to act as a parent of a  
18 child with a disability provided by:

19 (1) the Department of Family and Protective Services;

20 (2) a school district;

21 (3) an education service center; or

22 (4) any other entity that receives federal funds to  
23 provide special education training to parents.

24 (c) A foster parent who is denied the right to act as a  
25 [~~surrogate parent or a~~] parent under this section by a school  
26 district may file a complaint with the agency in accordance with  
27 federal law and regulations.

1        (d) Not later than the fifth day after the date a child with  
2 a disability is enrolled in a school, the Department of Family and  
3 Protective Services must inform the appropriate school district if  
4 the child's foster parent is unwilling or unable to serve as a  
5 parent for the purposes of this subchapter.

6        SECTION 2. Subchapter A, Chapter 29, Education Code, is  
7 amended by adding Section 29.0151 to read as follows:

8        Sec. 29.0151. APPOINTMENT OF SURROGATE PARENT FOR CERTAIN  
9 CHILDREN. (a) This section applies to a child with a disability for  
10 whom:

11        (1) the Department of Family and Protective Services  
12 is appointed as the temporary or permanent managing conservator of  
13 the child; and

14        (2) the rights and duties of the department to make  
15 decisions regarding the child's education under Section 153.371,  
16 Family Code, have not been limited by court order.

17        (b) Except as provided by Section 263.0025, Family Code, a  
18 school district must appoint an individual to serve as the  
19 surrogate parent for a child if:

20        (1) the district is unable to identify or locate a  
21 parent for a child with a disability; or

22        (2) the foster parent of a child is unwilling or unable  
23 to serve as a parent for the purposes of this subchapter.

24        (c) A surrogate parent appointed by a school district may  
25 not:

26        (1) be an employee of the state, the school district,  
27 or any other agency involved in the education or care of the child;

1 or

2 (2) have any interest that conflicts with the  
3 interests of the child.

4 (d) A surrogate parent appointed by a district must:

5 (1) be willing to serve in that capacity;

6 (2) exercise independent judgment in pursuing the  
7 child's interests;

8 (3) ensure that the child's due process rights under  
9 applicable state and federal laws are not violated;

10 (4) complete a training program that complies with  
11 minimum standards established by agency rule within the time  
12 specified in Section 29.015(b);

13 (5) visit the child and the school where the child is  
14 enrolled;

15 (6) review the child's educational records;

16 (7) consult with any person involved in the child's  
17 education, including the child's:

18 (A) teachers;

19 (B) caseworkers;

20 (C) court-appointed volunteers;

21 (D) guardian ad litem;

22 (E) attorney ad litem;

23 (F) foster parent; and

24 (G) caregiver; and

25 (8) attend meetings of the child's admission, review,  
26 and dismissal committee.

27 (e) The district may appoint a person who has been appointed

1 to serve as a child's guardian ad litem or as a court-certified  
2 volunteer advocate, as provided under Section 107.031(c), Family  
3 Code, as the child's surrogate parent.

4 (f) If a court appoints a surrogate parent for a child with a  
5 disability under Section 263.0025, Family Code, and the school  
6 district determines that the surrogate parent is failing to perform  
7 or is not properly performing the duties listed under Subsection  
8 (d), the district shall consult with the Department of Family and  
9 Protective Services and appoint another person to serve as the  
10 surrogate parent for the child.

11 (g) On receiving notice from a school district under  
12 Subsection (f), the Department of Family and Protective Services  
13 must promptly notify the court of the failure of the appointed  
14 surrogate parent to properly perform the duties required under this  
15 section.

16 SECTION 3. Section 107.031(c), Family Code, is amended to  
17 read as follows:

18 (c) A court-certified volunteer advocate appointed under  
19 this section may be assigned to act as a surrogate parent for the  
20 child, as provided by 20 U.S.C. Section 1415(b), if:

21 (1) the child is in the conservatorship of the  
22 Department of Family and Protective Services;

23 (2) the volunteer advocate is serving as guardian ad  
24 litem for the child; ~~and~~

25 (3) a foster parent of the child is not acting as the  
26 child's parent under Section 29.015, Education Code; and

27 (4) the volunteer advocate completes a training

1 program for surrogate parents that complies with minimum standards  
2 established by rule by the Texas Education Agency within the time  
3 specified by Section 29.015(b), Education Code.

4 SECTION 4. Section 263.0025, Family Code, is amended to  
5 read as follows:

6 Sec. 263.0025. SPECIAL EDUCATION DECISION-MAKING FOR  
7 CHILDREN IN FOSTER CARE [~~APPOINTMENT OF SURROGATE PARENT~~]. (a) In  
8 this section, "child" means a child in the temporary or permanent  
9 managing conservatorship of the department who is eligible under  
10 Section 29.003, Education Code, to participate in a school  
11 district's special education program. [~~If a child in the temporary~~  
12 ~~or permanent conservatorship of the department is eligible under~~  
13 ~~Section 29.003, Education Code, to participate in a school~~  
14 ~~district's special education program, the court may, when necessary~~  
15 ~~to ensure that the educational rights of the child are protected,~~  
16 ~~appoint a surrogate parent who:~~

17 [~~(1) is willing to serve in that capacity, and~~

18 [~~(2) meets the requirements of 20 U.S.C. Section~~  
19 ~~1415(b) and Section 29.001(10), Education Code.]~~

20 (a-1) A foster parent for a child may act as a parent for the  
21 child, as authorized under 20 U.S.C. Section 1415(b), if:

22 (1) the rights and duties of the department to make  
23 decisions regarding the child's education under Section 153.371  
24 have not been limited by court order; and

25 (2) the foster parent agrees to the requirements of  
26 Sections 29.015(a)(3) and (b), Education Code.

27 (a-2) Sections 29.015(b-1), (c), and (d), Education Code,

1 apply to a foster parent who acts or desires to act as a parent for a  
2 child for the purpose of making special education decisions.

3 (b) To ensure the educational rights of a child are  
4 protected in the special education process, the court may appoint a  
5 surrogate parent for the child if:

6 (1) the child's school district is unable to identify  
7 or locate a parent for the child; or

8 (2) the foster parent of the child is unwilling or  
9 unable to serve as a parent for the purposes of this subchapter [~~In~~  
10 appointing a surrogate parent for a child, the court shall give  
11 preferential consideration to a foster parent of the child as  
12 required under Section 29.015, Education Code].

13 (c) Except as provided by Subsection (d), the court may  
14 appoint a person to serve as a child's surrogate parent if the  
15 person:

16 (1) is willing to serve in that capacity; and

17 (2) meets the requirements of 20 U.S.C. Section  
18 1415(b) [~~If the court does not appoint a child's foster parent to~~  
19 serve as the child's surrogate parent, the court shall give  
20 consideration to:

21 [~~(1) a relative or other designated caregiver as~~  
22 ~~defined by Section 264.751; or~~

23 [~~(2) a court-appointed volunteer advocate who has been~~  
24 ~~appointed to serve as the child's guardian ad litem, as provided by~~  
25 ~~Section 107.031(c)].~~

26 (d) The following persons may not be appointed as a  
27 surrogate parent for the child:

- 1           (1) an employee of the department;
- 2           (2) an employee of the Texas Education Agency;
- 3           (3) an employee of a school or school district; or
- 4           (4) an employee of any other agency that is involved in
- 5 the education or care of the child.

6           (e) The court may appoint a child's guardian ad litem or

7 court-certified volunteer advocate, as provided by Section

8 107.031(c), as the child's surrogate parent.

9           (f) In appointing a person to serve as the surrogate parent

10 for a child, the court may consider the person's ability to meet the

11 qualifications listed under Sections 29.0151(d)(2)-(8), Education

12 Code.

13           (g) If the court prescribes training for a person who is

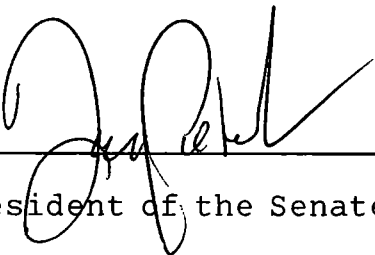
14 appointed as the surrogate parent for a child, the training program

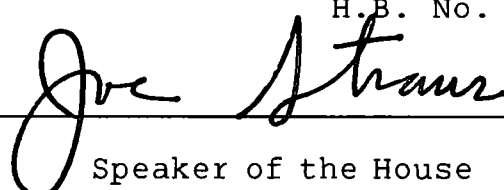
15 must comply with the minimum standards for training established by

16 rule by the Texas Education Agency.


17           SECTION 5. This Act takes effect September 1, 2017.



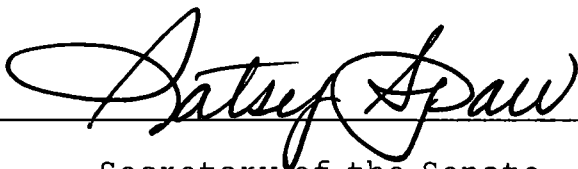
  
\_\_\_\_\_  
President of the Senate

H.B. No. 1556  
  
\_\_\_\_\_  
Speaker of the House

I certify that H.B. No. 1556 was passed by the House on May 8, 2017, by the following vote: Yeas 144, Nays 1, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 1556 on May 25, 2017, by the following vote: Yeas 142, Nays 0, 2 present, not voting.


  
\_\_\_\_\_  
Chief Clerk of the House

I certify that H.B. No. 1556 was passed by the Senate, with amendments, on May 23, 2017, by the following vote: Yeas 31, Nays 0.

  
\_\_\_\_\_  
Secretary of the Senate

APPROVED: 6-13-2017  
Date

  
\_\_\_\_\_  
Governor

FILED IN THE OFFICE OF THE  
SECRETARY OF STATE  
3 PM O'CLOCK  
JUN 15 2017  
  
\_\_\_\_\_  
Secretary of State

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**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION**

**May 24, 2017**

**TO:** Honorable Joe Straus, Speaker of the House, House of Representatives

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB1556** by González, Mary (Relating to the appointment of foster parents and other qualified persons to serve as educational decision-makers for certain children in the conservatorship of the Department of Family and Protective Services.), **As Passed 2nd House**

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Education Code and Family Code relating to the appointment of foster parents and other qualified persons to serve as educational decision-makers for certain children in the conservatorship of the Department of Family and Protective Services. Based on information provided by the Office of Court Administration, the Texas Education Agency, and the Department of Family and Protective Services, it is assumed that duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

The bill would take effect September 1, 2017.

**Local Government Impact**

According to the OCA, no significant fiscal implication to local courts is anticipated.

**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council, 530 Family and Protective Services, Department of, 701 Texas Education Agency

**LBB Staff:** UP, SD, KCA, EP, JLi, THo, AW, JGA

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION**

**May 20, 2017**

**TO:** Honorable Charles Schwertner, Chair, Senate Committee on Health & Human Services

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB1556** by González, Mary (Relating to the appointment of foster parents and other qualified persons to serve as educational decision-makers for certain children in the conservatorship of the Department of Family and Protective Services.), **Committee Report 2nd House, Substituted**

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Education Code and Family Code relating to the appointment of foster parents and other qualified persons to serve as educational decision-makers for certain children in the conservatorship of the Department of Family and Protective Services. Based on information provided by the Office of Court Administration, the Texas Education Agency, and the Department of Family and Protective Services, it is assumed that duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

The bill would take effect September 1, 2017.

**Local Government Impact**

According to the OCA, no significant fiscal implication to local courts is anticipated.

**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council, 530 Family and Protective Services, Department of, 701 Texas Education Agency

**LBB Staff:** UP, KCA, EP, JLi, THo, AW, JGA

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION**

**May 11, 2017**

**TO:** Honorable Charles Schwertner, Chair, Senate Committee on Health & Human Services

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB1556** by González, Mary (Relating to the appointment of foster parents and other qualified persons to serve as educational decision-makers for certain children in the conservatorship of the Department of Family and Protective Services.), **As Engrossed**

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Education Code and Family Code relating to the appointment of foster parents and other qualified persons to serve as educational decision-makers for certain children in the conservatorship of the Department of Family and Protective Services. Based on information provided by the Office of Court Administration, the Texas Education Agency, and the Department of Family and Protective Services, it is assumed that duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

The bill would take effect September 1, 2017.

**Local Government Impact**

According to the OCA, no significant fiscal implication to local courts is anticipated.

**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council, 530 Family and Protective Services, Department of, 701 Texas Education Agency

**LBB Staff:** UP, KCA, EP, JLi, THo, AW, JGA

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION**

**April 18, 2017**

**TO:** Honorable Dan Huberty, Chair, House Committee on Public Education

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB1556** by González, Mary (Relating to the appointment of foster parents and other qualified persons to serve as educational decision-makers for certain children in the conservatorship of the Department of Family and Protective Services.), **Committee Report 1st House, Substituted**

<b>No significant fiscal implication to the State is anticipated.</b>
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The bill would amend the Education Code and Family Code relating to the appointment of foster parents and other qualified persons to serve as educational decision-makers for certain children in the conservatorship of the Department of Family and Protective Services. Based on information provided by the Office of Court Administration, Texas Education Agency, and the Department of Family and Protective Services, it is assumed that duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

The bill would take effect September 1, 2017.

**Local Government Impact**

The bill would require foster parents and court-certified volunteer advocates for students with disabilities to complete a training program for the purpose of making education decisions prior to an admission, review, and dismissal (ARD) committee meeting, or within a specific time period established by the bill. According to the Texas Education Agency (TEA), there would be a cost related to developing the required training program for a school district, an education service center, or any other entity that receives federal funds to provide training to parents. TEA estimates a cost of \$230,000 in fiscal year 2018 for initial development of the training program and continuing costs of \$25,000 in subsequent years to maintain and update the online training program.

The bill would require a school district to appoint an individual to serve as the surrogate parent for a student under certain instances. TEA estimates that school districts may need to hire additional staff members to comply with the provisions of the bill. According to TEA, the average annual salary for a social worker is \$45,000 and the average annual salary for a counselor is \$63,000. Costs related to hiring additional staff would vary depending on the size of the district and the number of students in foster care with a disability who enroll in the district.

According to the OCA, no significant fiscal implication to local courts is anticipated.

**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council, 530 Family and Protective Services, Department of, 701 Texas Education Agency

**LBB Staff:** UP, THo, EP, JLi, AW, JGA

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION**

**April 2, 2017**

**TO:** Honorable Dan Huberty, Chair, House Committee on Public Education

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB1556** by González, Mary (Relating to the appointment of foster parents and other qualified persons to serve as educational decision-makers for certain children in the conservatorship of the Department of Family and Protective Services.), **As Introduced**

<b>No significant fiscal implication to the State is anticipated.</b>
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The bill would amend the Education Code and Family Code relating to the appointment of foster parents and other qualified persons to serve as educational decision-makers for certain children in the conservatorship of the Department of Family and Protective Services. Based on information provided by the Office of Court Administration, Texas Education Agency, and the Department of Family and Protective Services, it is assumed that duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

The bill would take effect September 1, 2017.

**Local Government Impact**

The bill would require foster parents and court-certified volunteer advocates for students with disabilities to complete a training program for the purpose of making education decisions prior to an admission, review, and dismissal (ARD) committee meeting, or within a specific time period established by the bill. According to the Texas Education Agency (TEA), there would be a cost related to developing the required training program for a school district, an education service center, or any other entity that receives federal funds to provide training to parents. TEA estimates a cost of \$230,000 in fiscal year 2018 for initial development of the training program and continuing costs of \$25,000 in subsequent years to maintain and update the online training program.

The bill would require a school district to appoint an individual to serve as the surrogate parent for a student under certain instances. TEA estimates that school districts may need to hire additional staff members to comply with the provisions of the bill. According to TEA, the average annual salary for a social worker is \$45,000 and the average annual salary for a counselor is \$63,000. Costs related to hiring additional staff would vary depending on the size of the district and the number of students in foster care with a disability who enroll in the district.

According to the OCA, no significant fiscal implication to local courts is anticipated.

**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council, 530 Family and Protective Services, Department of, 701 Texas Education Agency

**LBB Staff:** UP, THo, EP, JLi, AW, JGA



**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council, 530 Family and Protective Services, Department of, 701 Texas Education Agency

**LBB Staff:** UP, THo, EP, JLi, AW, JGA