

SUBJECT: Revising Family Code provisions affecting adoption

COMMITTEE: Juvenile Justice and Family Issues — committee substitute recommended

VOTE: 7 ayes — Goodman, Staples, J. Jones, McReynolds, Naishtat, A. Reyna, Smith
0 nays
2 absent — McClendon, Williams

SENATE VOTE: On final passage, April 8 — 31-0

WITNESSES: For — None
Against — None
On — Robert L. (Bob) Green, Primary Nurturing Fathers of Texas and Texas Fathers Alliance

BACKGROUND : The Department of Protective and Regulatory Services (DPRS) is the state agency charged with investigating reports of child abuse and neglect, placing children in foster care and permanent adoptive homes, and providing various other services to children and families.

In cases of reported abuse or neglect, the DPRS may be given court authority to remove children from their homes; the department may act without court authority in some emergency situations. If the child is not returned home within 14 days, a court must hold a full adversary hearing at which it may appoint the DPRS as the child's temporary managing conservator. A status hearing on the case must be held 60 days from the appointment and review hearings every six months to determine whether the child should remain in substitute care, i.e., care outside the child's home, such as foster care, institutional care, adoption, or placement with a relative.

The Governor's Committee to Promote Adoption was created in May 1996 to identify ways to reduce legal, judicial and administrative barriers to adoption.

DIGEST: CSSB 34 would amend the Family Code to implement several recommendations of the Governor’s Committee to Promote Adoption.

The bill would institute shorter deadlines for hearings involving placement of children, and require hearings and status reviews to include planning for permanent placement.

A status hearing would have to be held within 60 days after the court rendered a temporary order appointing the DPRS as temporary managing conservator of a child, rather than within 60 days after the full adversary hearing. At the status hearing, the court would have to review both the child’s status and the permanency plan developed for the child.

The court would have to hold an initial permanency hearing — renamed from the current “review hearing” — within 180 days after rendering a temporary order appointing the DPRS as temporary managing conservator of a child, rather than 180 days after the full adversary hearing. The DPRS would be required to prepare a permanency plan for the child and to provide a copy of the plan to each person entitled to notice of the permanency hearing.

The court would have to clearly warn parents in open court that parental and custodial rights and duties could be restricted or terminated unless they were willing and able to provide the child with a safe environment. Such warnings would be required at the full adversary hearing after the governmental entity took emergency possession of a child and at the status hearing and each permanency hearing after the court rendered a temporary order appointing the DPRS as temporary managing conservator.

A court would be required to issue a final order within one year after the DPRS was appointed temporary managing conservator, unless it granted a 180-day extension order or rendered a temporary order finding that retaining jurisdiction would be in the child’s best interest. Otherwise, the court would have to dismiss the suit affecting the parent-child relationship.

A final order could require that the child be returned to the parent; name a relative or another person as the child’s managing conservator; appoint the DPRS as managing conservator of the child without terminating the parent-

child relationship; or terminate the parent-child relationship and appoint a relative, another suitable person or the DPRS as managing conservator of the child.

If the DPRS were named a managing conservator, the court would have to conduct a placement review hearing at least once every six months until the child became an adult or was adopted, depending on whether the final order terminated parental rights.

CSSB 34 would establish requirements for placement review hearing notice, processes, and reports. At each placement review hearing, the court would have to make a determination on each issue addressed in the placement review report, including whether the DPRS or its authorized agency had exercised due diligence in attempting to place the child, if eligible, for adoption.

The bill would take effect January 1, 1998, and would apply to all suits commenced before, on or after the effective date.

NOTES:

Changes to the Senate-passed version made by the committee substitute include deleting a provision regarding legal representation of the DPRS and adding a provision to schedule of a new dismissal date in cases where a child would have to be removed from substitute care.

CSSB 181 contains many of the provisions also found in SB 34, by Zaffirini et al., which was placed on the General State Calendar for May 22. The DPRS sunset bill, SB 359 by Brown, which also includes several provisions similar to those in CSSB 181, passed the House on May 23.

Two other related bills, HB 1826 and HB 1091, both by Goodman, revising child abuse and neglect statutes and relating to adoption procedures, have passed both houses and await action by the governor.