

**SUBJECT:** Law enforcement release of a child to a child-placing agency

**COMMITTEE:** Juvenile Justice and Family Issues — favorable, without amendment

**VOTE:** 5 ayes — Dutton, Goodman, Castro, Nixon, Strama  
0 nays  
4 absent — Y. Davis, Dunnam, J. Moreno, Thompson

**WITNESSES:** For — Jack Downey, San Antonio Police Officer Association, San Antonio Police Department, Texas Alliance of Family and Child Services  
Against — None

**BACKGROUND:** A law enforcement officer or a juvenile probation officer may take possession of a child without a court order if they have reason to believe there is an immediate danger to the physical health or safety of the child. These officers are authorized to release the child to the Department of Family and Protective Services (DFPS) or to any other person authorized by law to take possession of the child.  
  
A child-placing agency is a person or organization, other than the natural parents or guardian of a child, that plans to or places a child in a child-care facility, agency foster home, agency foster group home, or adoptive home.

**DIGEST:** HB 798 would allow a law enforcement or juvenile probation officer who took possession of a child to release the child to a licensed child-placing agency authorized by DFPS, as well as to DFPS or any other person authorized by law.  
  
This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2005.

**SUPPORTERS SAY:** By allowing law enforcement and juvenile probation officers to release children to child-placing agencies, HB 798 would benefit children removed from their homes, as well as officers and the general public. A

large percentage of emergency child removals occur between the hours of 5 p.m. and 7 a.m., when it is difficult for police to locate other authorized caregivers for a child. DFPS also may have difficulty responding quickly outside of business hours. An officer could transport a child to a shelter, but the officer would not be authorized to release the child without a court order or voluntary placement by the child's custodian. Without a means to release the child, law enforcement has to care for the child until other arrangements can be made.

Officers are not trained or equipped to care for children following the trauma of removal. They lack the knowledge of a skilled social worker in how to approach a child and what resources and environment would most benefit the child. The more time an officer spends trying to find a qualified caregiver to whom a child can be released, the less time the officer has on the streets handling other public safety issues. Having better access to childcare professionals would allow officers to strike a balance between ensuring the welfare of a child and returning to normal duties quickly for the welfare of the public at large.

The sooner a child was released to a fully trained caregiver, the sooner the child could begin to feel more stable and safe in a new environment. Staying with an officer, despite an officer's good intentions and caring demeanor, could perpetuate a child's feelings of fear associated with being removed from home and family.

Because only facilities licensed and authorized by DFPS to provide child-placing services would be used, DFPS could ensure that, despite the department's inability to respond initially, the child's best interests would be served. Professionals at child-placing agencies are skilled in locating the right facility to meet a child's needs and could assist a child until DFPS could enter the situation.

**OPPONENTS  
SAY:**

If an officer could not locate an authorized caregiver for a child, then the child should be released only to DFPS so that the state could ensure that the best interests of a child were served. Child care facilities are not generic and are designed to serve specific youth populations that require different levels of resources and various levels of care.

Officers do not have the know-how to determine in which facility a child should be placed, and the facility in which a child is placed should not, by default, be dictated by what licensed facility is closest to the site from

which law enforcement removed the child. Only DFPS should make referrals for substitute care based on their training and experience in assessing the particular needs of each child.

It is better to minimize the number of times a child is moved among facilities in order to heighten the child's sense of stability in a foreign situation. A child may begin to feel safe and reassured with certain caregivers, then if the caseworker determined the facility to which the child was released was not ideal, the child would have to move to a facility better equipped to meet the child's service needs.

Allowing officers to release children to child-placing agencies could provide a crutch, with an officer tempted to release a child to an agency for convenience rather than try to locate relatives or other authorized caregivers with whom the child could be placed.