

SUBJECT: Changing the payment structure for kinship caregivers

COMMITTEE: Human Services — favorable, without amendment

VOTE: 9 ayes — Raymond, Frank, Keough, Klick, Miller, Minjarez, Rose,
Swanson, Wu

0 nays

WITNESSES: For — Dana Springer, Catholic Charities Fort Worth; Rachel Cooper, Center for Public Policy Priorities; Lee Spiller, Citizens Commission on Human Rights; Katherine Barillas, One Voice Texas; Johana Scot, Parent Guidance Center; Linda Wolfe and Janet Woody, Standout Ministries; Kate Murphy, Texans Care for Children; Kathryn Freeman, Texas Baptist Christian Life Commission; Sarah Crockett, Texas CASA; Madeline McClure, TexProtects, Texas Association for the Protection of Children, and Prevent Child Abuse Texas; Mercedes Bristol; Leeleeya Chavez; John Specia; (*Registered, but did not testify*: Shannon Rosedale, Catholic Charities Fort Worth; Michaela Bernacchio, Children's Health; Stacy Wilson, Children's Hospital Association of Texas; Will Francis, National Association of Social Workers - Texas Chapter; Judy Powell, Parent Guidance Center; Joshua Houston, Texas Impact; Jennifer Allmon, Texas Catholic Conference of Bishops; Katie Olse, TX Alliance of Child and Family Services; James Thurston, United Ways of Texas; Knox Kimberly, Upbring)

Against — None

On — Hank Whitman, Department of Family and Protective Services; (*Registered, but did not testify*: Lynn Blackmore, Kristene Blackstone, Audrey Carmical, Lisa Kanne, Lisa Subia, and Trevor Woodruff, Department of Family and Protective Services)

BACKGROUND: Family Code, sec. 264.755 requires the Department of Family and Protective Services (DFPS), if funds are available, to provide financial assistance and other support services to kinship caregivers based on a

family's need. The financial assistance must include a one-time payment of up to \$1,000 for the initial placement of a child. The payment for placement of a sibling group must be at least \$1,000 for the group, but may not be more than \$1,000 for each child in the group. Assistance also may include reimbursement of certain other expenses, as determined by rule, of no more than \$500 per year for each child.

Under DFPS rules (40 Texas Administrative Code, part 19, ch. 700, subch. J, div. 1, §700.1011), a caregiver qualifies for the annual reimbursement if the caregiver's income is 300 percent or less of the federal poverty level and if the child is in the caregiver's care at the time an expense is incurred.

The federal poverty level is a guideline calculated using information from the U.S. Census Bureau and Consumer Price Index. In 2017, the federal poverty level is \$12,060 for an individual, \$16,240 for a two-person household, and \$20,420 for a three-person household.

DIGEST:

HB 4 would establish requirements for DFPS to disburse cash payments based on income level to kinship caregivers in the relative and other designated caregiver program.

A caregiver with a family income less than or equal to 300 percent of the federal poverty level (FPL) could receive monetary assistance of up to 50 percent of the daily basic foster care rate for a child. DFPS would have to disburse the monetary assistance to a kinship caregiver in the same way it disburses payments to a foster parent.

A caregiver with a family income greater than 300 percent but no more than 500 percent of the FPL could receive a one-time payment of up to \$1,000 for the initial placement of each child with the caregiver. Payment for placement of a sibling group would have to be at least \$1,000 for the group but could not be more than \$1,000 for each child in the group. A caregiver within this income bracket could receive an annual \$500 maximum reimbursement for certain expenses for each child.

A caregiver with a family income greater than 500 percent of the FPL could not receive monetary assistance.

The bill would establish a criminal offense and civil penalty for those who intentionally deceived DFPS by knowingly making or causing to be made false statements that would allow them to enter into a caregiver assistance agreement. A first-time offense would be a state-jail felony (180 days to two years in a state jail and an optional fine of up to \$10,000). A subsequent offense would be a third-degree felony (two to 10 years in prison and an optional fine of up to \$10,000). A person who engaged in fraudulent activity would be liable to the state for a civil penalty of \$1,000.

The executive commissioner of the Health and Human Services Commission could adopt rules to determine whether fraudulent activity in a caregiver assistance agreement had occurred.

The bill would take effect September 1, 2017, and would apply to a caregiver assistance agreement entered into before, on, or after that date.

If a caregiver with a family income of 300 percent or less of the FPL received monetary assistance on or after June 1, 2017, but before September 1, 2017, DFPS would have to consider those payments as a credit against the disbursement of assistance funds. The department would have to offset the credit before disbursing cash payments under the bill.

**SUPPORTERS
SAY:**

HB 4 would enhance the financial ability of kinship caregivers to care for children placed in their homes. Empowering kinship caregivers with the financial tools and resources necessary to look after a child would save the state money in the long run because the cost of a child's average stay in kinship care would be considerably less than a child's average stay in non-relative foster care.

Not only would HB 4 be a worthy investment of taxpayer dollars, it also would allow children to remain under the loving care of their relatives.

Children in kinship care experience better outcomes, such as more stability, fewer placement changes, and fewer behavioral issues than children placed in non-relative care. Children in kinship care also have a better chance of exiting DFPS custody, such as through family reunification.

Ensuring the welfare of children placed with relative caregivers is paramount. By establishing a criminal penalty for entering into a fraudulent caregiver assistance agreement, HB 4 would protect vulnerable children from exploitation by relatives whose sole purpose for caregiving lies in receiving financial assistance. The penalty provisions in the bill mirror statutory language for custody cases involving child abuse and neglect.

**OPPONENTS
SAY:**

Although HB 4 would help provide adequate financial support to kinship caregivers, the bill should guarantee the monthly stipends reach families in a timely manner. The \$1,000 one-time payment may take too long to be received, and the \$500 reimbursement for expenses is made annually, beginning a year after the child was placed. Because kinship caregivers typically have less time than foster parents to prepare for placements, it is vital that the cost of beds, clothing, and school supplies be covered quickly.

Treating a fraudulent caregiver assistance agreement as a criminal offense would be too severe and could disrupt a child's placement more than a civil penalty. Most relatives want what is best for a child, and verification processes exist to deal with instances of fraud. Fear of criminal prosecution also could deter families from taking in children. Instead of creating a criminal offense, the bill should set a civil penalty to address fraudulent caregiver assistance agreements.

The federal poverty level (FPL) is based on household size and household income. To help ensure that kinship caregivers receive stipends in the appropriate amount, a child to be placed in a caregiver's home should be included in the household size before calculating the caregiver's family income as a percentage of the FPL.

OTHER
OPPONENTS
SAY:

While increasing financial support to kinship caregivers is commendable and necessary, HB 4 would not change a provision in current law that terminates monetary assistance and other support services to caregivers who take permanent managing conservatorship (PMC) of a child. This could exacerbate a financial incentive that could discourage kinship caregivers from pursuing permanent managing conservatorship. Instead, HB 4 should smooth the path of children to permanency by allowing caregivers to receive post-PMC payments monthly or in a manner similar to post-adoption payments.

NOTES:

According to estimates by the Legislative Budget Board, HB 4 would have a negative impact of about \$32.5 million in general revenue related funds during fiscal 2018-19. The estimated cost could be higher or lower depending on actual placements of children.