

SUBJECT: Modifying court procedures for child abuse and neglect cases

COMMITTEE: Human Services — committee substitute recommended

VOTE: 7 ayes — Raymond, Frank, Keough, Miller, Minjarez, Rose, Wu
0 nays
2 absent — Klick, Swanson

WITNESSES: For — Andrew Homer, Texas CASA; Jeremy Newman, Texas Home School Coalition; Patricia Hogue, Texas Lawyers for Children;
(*Registered, but did not testify:* Will Francis, National Association of Social Workers - Texas Chapter; Katherine Barillas, One Voice Texas; Diane Ewing, Texans Care for Children; Sarah Crockett, Texas CASA; Joshua Houston, Texas Impact; James Thurston, United Ways of Texas; Knox Kimberly, Upbring; Danielle King; Thomas Parkinson)

Against — (*Registered, but did not testify:* Lee Spiller, Citizens Commission on Human Rights; Monica Ayres)

On — Jim Black, Angel Eyes Over Texas; Judy Powell and Johana Scot, Parent Guidance Center; Brandon Logan, Texas Public Policy Foundation; Tyrone Obaseki; Dean Rucker; (*Registered, but did not testify:* Anna Ford, Tiffany Roper, Kaysie Taccetta, and Eric Tai, Department of Family and Protective Services)

DIGEST: CSHB 7 would make various changes to procedures related to state intervention in child abuse and neglect, including applications for protective orders, suits affecting the parent-child relationship, the placement of a child, and court-ordered medical care.

Termination of parental rights and limits on removal. The bill would prohibit a court from terminating parental rights and the Department of Family and Protective Services (DFPS) from taking possession of a child based on evidence that the parent:

- homeschooled the child;
- was economically disadvantaged;
- engaged in reasonable discipline of the child; or
- had been charged with a nonviolent misdemeanor other than offenses against the person, offenses against the family, or an offense involving family violence as defined by Family Code, sec. 71.004.

The bill would allow a court to terminate parental rights for a parent if the court found by clear and convincing evidence grounds for termination of that parent's parental rights.

Service plan. The bill states that an allegation of abuse or neglect of a child or restatement of the facts of a case that was included in a service plan was inadmissible in court as evidence. Within five business days after a full adversary hearing, DFPS would have to make all referrals necessary for each parent to comply with a judge's order for services and provide information to parents on the availability of DFPS-approved service providers.

Protective order. The bill would allow DFPS to file an application for a protective order for a child on behalf of the department or jointly with a parent, relative, or caregiver if DFPS:

- had temporary managing conservatorship of the child;
- determined the child was a victim of abuse or neglect and there was the threat of immediate or continued abuse or neglect to the child, among other possible threats; and
- was not otherwise allowed to apply for a protective order for the child.

Review of child's placement. The bill would require the court at each hearing to review the placement of each child in DFPS temporary or permanent managing conservatorship for children who were not placed with kin or a designated caregiver.

Voluntary temporary managing conservatorship. A parent's voluntary agreement to temporarily place a child in DFPS managing conservatorship would not be considered an admission by the parent that the parent engaged in conduct that endangered the child.

Required notifications. The bill would require DFPS to notify the managed care organization (MCO) contracting with the state to provide health services to the child under Medicaid's STAR Health program of any changes in a child's placement as soon as possible. The MCO would have to inform the child's primary care physician of the placement change.

Within five days of a child placing agency notifying DFPS of its intent to change a child's placement or a foster parent's request to remove a child from a foster home, DFPS would be required to give notice of the change to:

- the child's parent;
- the child's appointed attorney ad litem, guardian ad litem, and volunteer advocate; and
- any other person determined by a court to have an interest in the child's welfare.

If DFPS received notice of a child placing agency's intent to change a child's placement, DFPS also would have to notify and give reasons to a foster parent, prospective adoptive parent, relative of the child providing care, or director of the group home or general residential operation where the child resided. For foster parents requesting removal of a child, DFPS would have to notify the licensed administrator of the child placing agency responsible for placing the child or a designee of the administrator.

Consultation for medical care. The bill would prohibit a court from issuing an order requiring or prohibiting medical care, including mental health care, for a child in DFPS conservatorship unless:

- the court found that a health care professional had been consulted

- on the proposed or prohibited care; and
- the health care professional had confirmed in writing that the treatment was medically necessary or, for an order prohibiting specific medical care, that the prohibition would not prevent the child from receiving necessary medical care.

This provision would not apply to a court order for emergency medical care, including mental health care, for a child in DFPS conservatorship.

A general residential operation that provided mental health treatment or services to a child in DFPS conservatorship would have to timely submit to the court in a suit affecting the parent-child relationship all requested information by that court.

A managed care organization (MCO) under Medicaid's STAR Health program would have to be required to ensure continuity of care for a child whose placement has changed by:

- notifying each specialist treating the child of the placement change; and
- coordinating the transition of care from the child's previous doctor and specialists to the child's new doctor and specialists, if any.

Dismissal of cases. CSHB 7 would terminate a court's jurisdiction over a case affecting the parent-child relationship if the court did not issue a ruling within one year. The case would be automatically dismissed without a court order. The bill would allow DFPS to request a six-month extension of the case for a parent to complete the remaining requirements in a service plan in order for a child to return home.

Child support payments. Unless a court determined a parent was indigent, the bill would allow a court to order a parent of a child in DFPS conservatorship to pay child support while the suit for DFPS to become managing conservator of a child was pending.

Supreme Court rules. The bill would require 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; 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.

Assessment. DFPS would have to conduct an independent living skills assessment for all youth in DFPS conservatorship who were at least 14 years old and to update the assessment annually.

Collaboration. The bill would require DFPS and the Texas Juvenile Justice Department to coordinate and develop protocols for sharing data with each other on services for multi-system youth.

DFPS would have to collaborate with other interested parties to review the use of broad-form and specific jury questions in suits affecting the parent-child relationship and submit recommendations to the Legislature by December 31, 2017.

Effective date. The bill would take effect September 1, 2017, and would apply to a service plan filed for a full adversary hearing or a status hearing on or after January 1, 2018.

SUPPORTERS
SAY:

CSHB 7 would address concerns about the length and complexity of court proceedings for child abuse and neglect cases. Requiring the court to review a foster child's placement at each hearing would promote the placement of children with relatives. Requiring child welfare stakeholders to be notified of a child's change in placement would enhance transparency and ensure stakeholders had accurate and timely data on a foster child's location.

The bill would provide sufficient protection regarding medical or mental health treatment for children because the court would rely solely on the medical expertise of a doctor to determine any necessary treatment for a

child before issuing an order for that treatment.

OPPONENTS SAY: CSHB 7 would not provide sufficient protection against unnecessary mental health treatment for children.

NOTES: According to the Legislative Budget Board's fiscal note, CSHB 7 would have a negative impact of about \$10.5 million to general revenue related funds during fiscal 2018-19.