

SUBJECT: Expanding community-based foster care services

COMMITTEE: Human Services — committee substitute recommended

VOTE: 6 ayes — Raymond, Frank, Keough, Klick, Miller, Minjarez

1 nay — Rose

2 absent — Swanson, Wu

SENATE VOTE: On final passage, March 1 — 31-0

WITNESSES: For — Wayne Carson, ACH Child and Family Services; Scott Lundy, Arrow Child and Family Ministries; Christina Green, Children's Advocacy Centers of Texas, Inc.; Stacy Wilson, Children's Hospital Association of Texas; Annette Rodriguez, Children's Shelter - San Antonio; Sarah Crockett, Texas CASA; Ryan Van Ramshorst, Texas Pediatric Society; Katie Olse, Texas Alliance of Child and Family Services; John Specia; (*Registered, but did not testify*: Kimmi Selinger, Behavioral Health Advocates of Texas; Jake Posey, Cal Farley's Boys Ranch; Ann Hettinger, Center for the Preservation of American Ideals; Matt Moore, Children's Health System of Texas; Michael Redden, New Horizons; Kate Murphy, Texans Care for Children; Jennifer Allmon, Texas Catholic Conference of Bishops; Steve Koebele, Texas Coalition of Homes for Children; John Hawkins, Texas Hospital Association; Troy Alexander, Texas Medical Association; James Thurston, United Ways of Texas; Knox Kimberly, Upbring)

Against — Lee Spiller, Citizens Commission on Human Rights

On — Elizabeth "Liz" Kromrei and Lisa Subia, Department of Family and Protective Services; Gary Jessee, Health and Human Services Commission; Will Francis, National Association of Social Workers - Texas Chapter; Brandon Logan, Texas Public Policy Foundation; Harrison Hiner, Texas State Employees Union; Anu Partap, UT Southwestern Medical Center and Children's Health System of Texas;

(Registered, but did not testify: Kristene Blackstone, Lisa Kanne, Sasha Rasco, Jean Shaw, Kaysie Taccetta, and Trevor Woodruff, Department of Family and Protective Services; Robert Kepple, Texas District and County Attorneys Association)

BACKGROUND: The 82nd Legislature in 2011 enacted SB 218 by Nelson, which implemented foster care redesign at the Department and Family Protective Services (DFPS) by directing the agency to adopt stakeholder recommendations included in a DFPS report. The report produced eight quality indicators for foster care redesign, such as ensuring children are safe and that they receive appropriate services, have a chance to participate in decisions affecting their lives, and have foster placements near their home communities. SB 218 also directed DFPS to change how the state contracts and pays for child welfare services.

Family Code, sec. 263.401 requires courts to dismiss after one year a conservatorship case affecting the parent-child relationship if the court has not started a trial on the merits or granted an extension. Sec. 266.012 requires a child to receive a comprehensive assessment, which includes a trauma screening and interviews with individuals who are aware of the child's needs, within 45 days after entering DFPS conservatorship. Sec. 261.001 defines abuse and neglect for in-home investigations by Child Protective Services, and sec. 261.401 defines abuse, neglect, and exploitation for the purpose of investigations of child-care facilities. Sec. 162.0062 entitles prospective adoptive parents of a foster child to examine records and other relevant background information of the child.

Sec. 264.124 requires DFPS to verify that a foster parent who is seeking monetary assistance from DFPS for day care has attempted to find appropriate day care services for the foster child through community services. Except in emergency placement situations, DFPS may not provide monetary assistance to a foster parent for day care until it has received the required verification from the foster parent.

DIGEST: CSSB 11 would transfer certain case management services from the Department of Family and Protective Services (DFPS) to a qualified

single source continuum contractor (SSCC) that would provide community-based foster care within a contracted area.

Community-based foster care. The bill would change the name of foster care redesign to community-based foster care. A catchment area would be defined as a geographic area for providing child protective services that was identified as part of the community-based foster care redesign. While DFPS would maintain temporary or permanent custody of a child, an SSCC would oversee the case management services of a child in a catchment area. Case management services would include:

- caseworker visits;
- family and caregiver visits;
- permanency planning meetings;
- development and revision of child and family plans of service, including a permanency plan and goals for a child;
- coordination and monitoring of services required by the child and the child's family;
- court-related duties, including ensuring the child was progressing toward the goal of permanency within state and federally mandated guidelines; and
- other services DFPS deemed necessary for a single source continuum contractor to assume responsibility of case management.

DFPS would transfer family reunification support services and case management services to an SSCC that was operating in an initial catchment area before June 1, 2017. DFPS and the SSCC would create an initial case transfer planning team to address any necessary data transfer, establish file transfer procedures, and notify relevant persons about the transfer of services to the SSCC.

Qualifications. To qualify as an SSCC, an entity would have to be a nonprofit or governmental entity that was licensed as a service provider by DFPS, had an organizational mission and demonstrated experience in the delivery of services to children and families, and could provide all

services and perform all duties as outlined in the bill. DFPS would be required to develop a readiness review process to determine the ability of an SSCC to provide foster care services in a catchment area.

SSCC contract. The bill would require a contract with an SSCC to:

- specify performance outcomes and financial incentives for exceeding any performance outcomes;
- establish conditions for the SSCC's access to relevant DFPS data and require the SSCC to participate in the data access and standards governance council created under the bill;
- require the SSCC to create one process for the training and use of alternative caregivers for all child-placing agencies in the catchment area to facilitate reciprocity of licenses for alternative caregivers between agencies, including respite and overnight care providers, as defined by DFPS rule; and
- require the SSCC to maintain a diverse network of service providers that could accommodate children from different cultural backgrounds.

DFPS would review, approve, or disapprove a contractor's decision about a child's permanency goal. The bill would require DFPS to form an internal dispute resolution process to resolve disagreements between an SSCC and DFPS. In addition, an SSCC and any subcontractor would have to maintain minimum insurance coverage.

The bill would require DFPS to create the foster care services contract compliance, oversight, and quality assurance division. The division would oversee contract compliance and achievement of performance-based outcomes by any vendor that provided community-based foster care, assess the fiscal and qualitative performance of vendors, and administer a dispute resolution process between SSCCs and subcontractors.

The bill would allow an SSCC to end its contract early by providing notice to DFPS at least 90 days before the termination. DFPS could end a contract with an SSCC by giving notice at least 30 days before

termination. DFPS would have to create a contingency plan in every catchment area to ensure the continuation of foster care services if a contract was terminated early.

Expanding community-based foster care. By December 31, 2019, DFPS would have to:

- identify a maximum of eight catchment areas that were best suited to implement community-based foster care and up to two that could be identified as best suited to implement the transfer of case management services to an SSCC;
- create an implementation plan for those catchment areas, including a timeline for implementation;
- following the readiness review process and subject to the availability of funds, implement community-based foster care in those catchment areas; and
- following the implementation of community-based foster care services, evaluate the implementation process and SSCC performance in each catchment area.

The bill would allow DFPS to change the geographic boundaries of catchment areas to align with specific communities. DFPS would have to ensure the continuity of services for children and families during the transition of community-based foster care in a catchment area.

Pilot program. The bill would require DFPS to implement a pilot program in two CPS regions where the Health and Human Services Commission (HHSC) contracted with a single non-profit entity focused on child welfare or a governmental entity to provide family-based safety services and case management for children and families receiving those services.

By December 31, 2018, DFPS would have to submit a report to the applicable standing committees of the Legislature that included an evaluation of every contracted entity's progress in achieving certain performance goals. The report also would include a recommendation of

whether to continue, expand, or terminate the pilot program.

Community engagement group. The bill would require DFPS to create a community engagement group in each catchment area to assist with the implementation of community-based foster care. DFPS would adopt rules governing community engagement groups and the maximum number of child welfare stakeholders that could be included in the group. The group would identify and report any issues stemming from the implementation process and facilitate the use of local resources, including prevention and early intervention resources, to supplement community-based foster care services.

Data access and standards governance council. DFPS would establish a data access and standards governance council to develop protocols for allowing SSCCs to access DFPS data to perform case management functions. Every SSCC that contracted with DFPS to provide community-based foster care would have to participate on the council. The council also could include court stakeholders, DFPS, health care providers, and other entities DFPS deemed necessary.

Health screenings. The bill would require children who were in DFPS custody for more than three business days to receive a medical examination and mental health screening by the end of the third business day or by the end of the fifth business day if the child was located in a rural area. The bill would require DFPS to submit a report by December 31, 2019, to the applicable standing committees on the department's compliance with administering medical examinations and mental health screenings.

An SSCC would have to verify a child to whom it was providing therapeutic foster care services was screened for trauma at least once every 90 days.

A child-placing agency or general residential operation would be required to ensure children in DFPS conservatorship received a complete early and periodic screening, diagnosis, and treatment checkup as specified in their

contracts with HHSC. The bill also would require managed care organizations under the STAR Health program to ensure their enrollees received these screenings and checkups. Contracts would include that an entity's noncompliance with administering the required screening, diagnosis, and checkup to children in DFPS conservatorship would result in progressive monetary penalties. The bill would prohibit HHSC from imposing financial penalties for an entity's noncompliance until September 1, 2018.

The bill also would require DFPS and an SSCC to notify within 24 hours the managed care organization under Medicaid's STAR Health program of any changes in a child's placement.

A child-placing agency and general residential operation would have to comply with the required contract provisions by August 31, 2018. The bill would apply to a contract between a managed care organization and HHSC entered into, renewed, or extended on or after September 1, 2017.

Non-community-based foster care regions. In regions of the state where community-based foster care had not been implemented, DFPS management personnel and local stakeholders would have to create and submit to the DFPS commissioner an annual plan that addressed foster care capacity needs. DFPS also would be required to collaborate with a child-placing agency to develop and implement the single child plan of service model for each child in foster care in these regions by September 1, 2017.

Performance metrics. HHSC and DFPS would have to develop performance quality metrics for family-based safety services and post-adoption support services providers by September 1, 2018. The metrics would be included in each contract with those providers.

Investigations of child abuse, neglect, and exploitation. The bill would specify that investigations of alleged abuse, neglect, or exploitation occurring at a child-care facility would remain under the purview of DFPS and would not be subject to consolidation of the health and human

services agencies. DFPS would be required to transfer the investigation duties of the Texas Child-Care Licensing (CCL) division to its Child Protective Services (CPS) division. This transfer would occur as soon as possible after the effective date of this section of the bill, which would be immediately if the bill was finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect August 28, 2017.

The bill would repeal the abuse, neglect, and exploitation definitions used by CCL at DFPS under Family Code, sec. 261.401. DFPS instead would adopt the definitions under Family Code, sec. 261.001.

DFPS would have to create standardized policies to use during investigations. It would implement the standardized definitions and policies by December 1, 2017. The DFPS commissioner would be required to establish specialized units within CPS to investigate allegations of child abuse, neglect, and exploitation at child-care facilities and could require investigators to receive ongoing training on minimum licensing standards.

Data collection. The bill would require DFPS to collect and monitor data on recurring reports of abuse or neglect by the same alleged perpetrator or involving the same child, including reports of abuse or neglect of the child made while the child resided in other households and reports of abuse or neglect of the child by different alleged perpetrators made while the child resided in the same household. When DFPS determined case priority or conducted service or safety planning for the child or child's family, the bill would require DFPS to consider any reports of abuse and neglect.

As soon as practicable after the bill's effective date, the bill also would require DFPS to create an office of data analytics to monitor and report on certain information about the agency's staff, such as employee retention and performance.

Records. DFPS would be required to ensure a child-placing agency, SSCC, or other person placing a child for adoption received a copy of the

child's health, social, educational, and genetic history report. If a child was placed with a prospective adoptive parent prior to adoption, the bill would entitle the prospective adoptive parent access to the child's health history.

An entity placing a child for adoption would be required to notify the prospective adoptive parent of the prospective adoptive parent's right to examine information related to the child's health history. The entity would have to redact information from the health records to protect the biological parents and any other person whose identity was confidential. If DFPS was aware whether a child's birth mother consumed alcohol during pregnancy and whether the child had been diagnosed with fetal alcohol spectrum disorder, the bill would require DFPS to include such information in the child's health history.

Day care reimbursement for foster parents. The bill would require DFPS to provide monetary assistance to a foster parent for full-time or part-time day care services for a foster child if DFPS received the required verification from a foster parent or the child needed an emergency placement. As long as the foster parent was employed full-time or part-time, the bill would prohibit DFPS from denying monetary assistance to the foster parent.

Attorney-client privilege. The bill would deem an employee, agent, or representative of an SSCC as a client's representative of DFPS for purposes of attorney-client communication privileges.

Suits. Under the bill, a court's jurisdiction over a case affecting the parent-child relationship would be terminated if the court did not begin a trial on the merits or grant an extension within one year. The case would be automatically dismissed without a court order.

Legal representation. In a catchment area where an SSCC is providing services, a county attorney or district attorney at a minimum would legally represent the department in any action that is filed against DFPS.

Effective date. Except as otherwise stated, the bill would take effect

September 1, 2017.

**SUPPORTERS
SAY:**

CSSB 11 would increase foster care capacity, strengthen accountability and transparency, and galvanize collaboration among child welfare stakeholders to promote a foster child's best interests within local communities.

The bill would increase Texas' ability to provide community-based foster care services to foster children with diverse needs in multiple geographic regions. The Department of Family and Protective Services (DFPS) experiences high caseworker turnover rates and lacks efficiency and local decision-making to find placements for children in foster care. Transferring case management services to a single source continuum contractor (SSCC) and expanding community-based foster care to other regions would allow more children to be placed within their home communities and to experience better outcomes.

The bill would strengthen accountability by requiring an SSCC to undergo an extensive readiness review process before the transfer of case management services or the expansion of community-based foster care occurred. During the readiness review process, an SSCC would have to disclose a plan explaining how the SSCC would avoid or eliminate conflicts of interest. The creation of a quality assurance division would increase transparency by requiring SSCCs to meet specific performance-based outcomes.

CSSB 11 would enhance collaboration among state and local child welfare stakeholders by establishing a community engagement group. The group would allow stakeholders to provide any necessary feedback to DFPS to make a region's transition to community-based foster care as smooth as possible.

**OPPONENTS
SAY:**

CSSB 11 would reduce the role of Child Protective Services (CPS) in the foster care system by outsourcing case management services to a single source continuum contractor (SSCC). Enabling the SSCC to provide case management services could lead to conflicts of interest by the SSCC,

which could endanger the child's best interests.

The Legislature should give DFPS more time to use its monetary and staff resources to improve outcomes for foster children before transferring case management services to SSCCs. DFPS recently received emergency funding to hire additional CPS caseworkers, increase caseworkers' salaries, and reduce caseworker turnover rates. Additional caseworkers would help DFPS meet the current foster care redesign goals the Legislature has set forth.

OTHER
OPPONENTS
SAY:

CSSB 11 should implement the expansion of community-based foster care at a faster pace for catchment areas in the pilot program. Community-based foster care in the Dallas area has proven to be a successful model for foster children by placing most children within 50 miles of their home communities. Accelerating the timeline of implementing community-based foster care in additional catchment areas would help local communities build the necessary capacity to address child welfare needs and give more foster children a chance to remain in their communities.

NOTES:

According to the Legislative Budget Board, the bill would have a negative impact of about \$17.6 million to general revenue related funds during fiscal 2018-19. It is assumed DFPS would hire additional staff for the foster care services contract compliance, oversight, and quality assurance division, which could cost \$1.2 million in all funds each fiscal year. It is also assumed that about 1,200 children would enter paid kinship care annually, which is estimated to cost \$1.6 million in general revenue and \$4.4 million in all funds in fiscal 2019 and each year thereafter.

CSSB 11 differs from the Senate-passed version in numerous ways. Among these, the committee substitute would:

- require the Department of Family and Protective Services (DFPS) to create a community engagement group; foster care services contract compliance, oversight, and quality assurance division; data access and standards governance council; and child protective services legislative oversight committee;

- direct DFPS to identify other catchment areas for the implementation of community-based foster care;
- increase the single source continuum contractor (SSCC) qualifications and the required SSCC contract provisions;
- not include the risk terrain modeling system for prevention and early intervention services that appeared in the Senate-engrossed version;
- require children who remained in DFPS conservatorship for more than three business days to receive a mental health screening; and
- require DFPS to adopt standardized definitions of abuse, neglect, and exploitation under Family Code, sec. 261.001.

A companion bill, HB 6 by Frank, was placed on the May 8 House Emergency Calendar and postponed.