

- SUBJECT:** Revising procedures regarding surrogate parents of foster children
- COMMITTEE:** Human Services — committee substitute recommended
- VOTE:** 9 ayes — Frank, Hinojosa, Clardy, Deshotel, Klick, Meza, Miller, Noble, Rose
0 nays
- WITNESSES:** For — Sarah Crockett, Texas CASA; (*Registered, but did not testify*: Will Francis, National Association of Social Workers-Texas Chapter; Lee Nichols, TexProtects; Knox Kimberly, Upbring)
Against — None
On — Jamie Bernstein, Children's Commission; Denise Brady, Department of Family and Protective Services
- BACKGROUND:** Education Code sec. 25.007(b)(10) requires school districts, campuses, and open-enrollment charter schools to provide notice to the educational decision-maker and caseworker of a student who is homeless or in substitute care regarding certain events that may significantly impact the child's education.
Sec. 29.0151 requires school districts to appoint surrogate parents for children with disabilities who are under the managing conservatorship of the Department of Family and Protective Services (DFPS) if the district is unable to identify or locate a parent for the child or if the foster parent is unwilling or unable to serve as a parent. The surrogate parent may not be an employee of the state, the school district, or any agency involved in the education or care of the child, and the surrogate parent may not have any interest that conflicts with the interest of the child. If the school district determines that a surrogate parent is failing to perform the necessary duties, the district is required to appoint a new surrogate parent after consulting with DFPS. DFPS is required to promptly notify the court of the surrogate parent's failure to perform their necessary duties.

DIGEST: CSHB 1709 would require school districts to notify the educational decision-maker and caseworker when the district appointed a surrogate parent for a student with disabilities who was under the managing conservatorship of the Department of Family and Protective Services (DFPS), as well as when the district appointed a surrogate parent for a student who was homeless or in substitute care.

The bill would remove the district's authority to appoint a new surrogate parent for a child with disabilities under the managing conservatorship of DFPS if the child's appointed surrogate parent was failing to perform their necessary duties. Instead, the district would be required to consult with DFPS regarding whether another person should be appointed, and if DFPS and the district agreed that the appointed surrogate parent was unable or unwilling to properly perform the necessary duties, DFPS would be required to promptly notify the court of the agreement. The court would be required to, as soon as practicable after receiving notice, review the appointment and enter any orders necessary to ensure the child had a surrogate parent who performed the necessary duties.

CSHB 1709 would broaden the definition of who could be appointed a surrogate parent by a school district to any person who was not an employee of the Texas Education Agency rather than any person who was not an employee of the state. All other eligibility requirements would remain in place.

The 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, 2019.

SUPPORTERS SAY: CSHB 1709 would improve the process by which school districts, the Department of Family and Protective Services (DFPS), advocates, and the courts worked together to support foster children with disabilities and students who were experiencing homelessness. By requiring school districts to work with DFPS and the court when a surrogate parent was not performing the duties required of them and notifying the caseworker and

educational decision-makers of any change, the bill would ensure that the people who had the most knowledge regarding a student's circumstances stayed involved throughout the entire process.

The bill also would add more accountability and transparency to the surrogate parent system by involving more people when a surrogate failed to do the job. Many foster children receive special education services, and surrogate parents play an important role in educational decision-making for those students. Ensuring that the surrogate parent system is using the best available information and involving the people most familiar with a student's situation would give foster kids with disabilities the best chance of success.

CSHB 1709 would allow more willing and qualified adults to be surrogate parents and would more closely align with the intent of the original law by allowing any state employee without a conflict of interest to serve as a surrogate parent.

OPPONENTS
SAY:

No concerns identified.