

SUBJECT: Modifying certain procedures for parental child safety placements

COMMITTEE: Human Services — favorable, without amendment

VOTE: 5 ayes — Frank, Hull, Klick, Noble, Shaheen

3 nays — Hinojosa, Meza, Rose

1 absent — Neave

WITNESSES: For — Judy Powell, Parent Guidance Center; Julia Hatcher, Texas Association of Family Defense Attorneys (TAFDA); Andrew Brown, Texas Public Policy Foundation; Maureen Ball; (*Registered, but did not testify*: Rebecca Galinsky and Adrienne Trigg, Protect TX Fragile Kids; Meagan Corser, Texas Home School Coalition; Ashley Pardo)

Against — None

On — Marta Talbert, Department of Family and Protective Services; (*Registered, but did not testify*: Angie Voss, Department of Family and Protective Services; Thomas Parkinson)

BACKGROUND: Family Code sec. 264.901 defines a parental child safety placement (PCSP) as a temporary, out-of-home placement of a child with a caregiver made by a parent or other person with whom the child resides in accordance with a written parental child safety placement agreement approved by the Department of Family and Protective Services (DFPS) that ensures the safety of the child:

- during an investigation by DFPS of alleged abuse or neglect of the child; or
- while the parent or other person is receiving services from the department.

Family Code sec. 264.902 requires that a PCSP agreement include certain terms clearly stating the respective duties of the person making the

placement and the caregiver, the conditions under which the person making the placement may have access to the child, the duties of DFPS, the date on which the agreement will terminate subject to certain DFPS policies, and any other term the department determines necessary for the safety and welfare of the child.

Under Family Code sec. 264.203, a court on the request of DFPS can order a parent, managing conservator, guardian, or other member of the subject child's household to participate in or to permit the child and any siblings in the house to receive certain services related to abuse or neglect. If the person ordered to participate in the services fails to follow the court's order, the court may impose appropriate sanctions, including the removal of the child.

Family Code sec. 263.0061 establishes the right to counsel for parents involved in a status hearing or permanency hearing held after the date the court renders a temporary order appointing the department as temporary managing conservator of a child, including the right to a court-appointed attorney if a parent is indigent.

DIGEST: HB 2680 would modify certain procedures concerning parental child safety placements (PCSPs), including required PCSP agreement terms, the right to counsel in certain situations, and reporting requirements.

The bill would require a PCSP agreement to include a term that clearly stated the agreement would automatically terminate on the earlier of the 30th day after the date the agreement was signed or the child was placed with the caregiver.

If a child was subject to a PCSP, before the court could order a parent, managing conservator, guardian, or other member of the child's household to participate in services, the court would be required to advise anyone without an attorney of their right to be represented by an attorney, and if the person was indigent and opposed the court order, to advise the person of their right to a court-appointed attorney.

DFPS would be required to include children who are placed with a caregiver under a PCSP agreement in any report in which the department was required to disclose the number of children in the child protective services system who were removed from their homes, including in reports submitted to the U.S. Department of Health and Human Services or other federal agencies. If a child was placed with a caregiver under a PCSP, DFPS also would be required to report the number of cases in which a court ordered the parent, managing conservator, guardian or other member of the subject child's household to participate in services.

The bill would take effect September 1, 2021.

SUPPORTERS
SAY:

HB 2680 would provide necessary safeguards and oversight for families subject to parental child safety placements (PCSPs) by limiting the duration of PCSP agreements and by requiring the Department of Family and Protective Services (DFPS) to report new data tracking PCSPs to both state and federal governmental entities.

PCSPs were originally intended to balance the safety needs of a child during abuse and neglect investigations with minimizing the trauma associated with governmental removal of the child from their home. Families undergoing DFPS investigations can be asked to place their child with another trusted individual known by the child during the investigation or while the family is receiving services addressing the alleged abuse or neglect. However, there are concerns that PCSPs are influencing families into temporarily giving up their children for open-ended lengths of time during DFPS investigations with the threat of state action for noncompliance with the PCSP agreement.

HB 2680 would allow DFPS to continue using PCSP agreements as an important tool to prevent removals but would add the needed transparency, oversight, and time limitations for these agreements to work properly for the families. It would require DFPS to make a decision on whether to open a case for the child under the PCSP agreement within 30 days of placement of the child with the caregiver or the signing of the agreement, whichever was less.

Under the bill, families would be empowered to question decisions of DFPS with the assurance of access to a court-appointed attorney should any disagreements arise. Thirty days should be sufficient for DFPS to make a determination on whether a child is at high risk of abuse or neglect warranting a government removal of the child. After termination of a PCSP agreement in which DFPS did not find a high risk or danger, DFPS could continue providing services to the families without the threat of removal of the child dictating decisions and participation in services.

The separation or removal of a child from their family is one of the most drastic measures that the state can impose on a family, and oftentimes the most marginalized Texans are the families subject to these separations or removals. The bill would help ensure that children were not away from their families for longer than necessary. The bill's reporting provisions would provide transparency, revealing clear and actionable data that Texas needs in order to make improvements.

**CRITICS
SAY:**

Limiting parental child safety placement (PCSP) agreements to 30 days may not provide DFPS with adequate time to determine if a family had made the necessary behavioral changes for a child to go home, resulting in multiple or premature governmental removals, which are traumatic for all parties involved. In 2020, the average length of time for children in a PCSP placement was four months. Mandating termination of a PCSP agreement after only 30 days could encourage more removals out of an overabundance of caution based on an inability to determine risk level to the child within that time frame or on an inability to determine whether necessary behavioral improvements in family members were made.

There also are concerns regarding the increase in DFPS resources that would likely be necessary due to the expected increase in governmental removals of children. There would likely be increased resource needs for relative caregivers or other designated caregivers who receive money from the state, for paid foster care, and for full-time equivalents for the department.

NOTES: According to the Legislative Budget Board, the bill would have a negative

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impact of about \$34.7 million to general revenue related funds through fiscal 2022-23.