

SUBJECT: Requiring DFPS to implement community-based foster care statewide

COMMITTEE: Human Services — committee substitute recommended

VOTE: 8 ayes — Frank, Hinojosa, Hull, Meza, Neave, Noble, Rose, Shaheen

0 nays

1 absent — Klick

WITNESSES: For — Brandon Logan, One Accord for Kids; Jamie McCormick, Texas Alliance of Child and Family Services; Andrew Brown, Texas Public Policy Foundation; (*Registered, but did not testify:* Linda Garcia, 2Ingage; Maggie Luna, Statewide Leadership Council; Julia Hatcher, Texas Association of Family Defense Attorneys; Sarah Crockett, Texas CASA; Shannon Jaquette, Texas Catholic Conference of Bishops; Dan Finch, Texas Medical Association; Knox Kimberly, Upbring)

Against — (*Registered, but did not testify:* Tyler Sheldon, Texas State Employees Union)

On — (*Registered, but did not testify:* Ellen Letts and Angie Voss, Department of Family and Protective Services; Victoria Grady, Health and Human Services Commission; Deseray Matteson, Texas Health Care Association)

BACKGROUND: The 85th Legislature in 2017 enacted SB 11 by Schwertner, which required the Department of Family and Protective Services to transfer certain case management services to qualified private contractors, called "single source continuum contractors (SSCCs)," providing community-based foster care services within selected geographic areas called "catchment areas." "Community-based foster care," formerly known as foster care redesign, has not yet been fully implemented statewide.

The federal Family First Prevention Services Act allows states to receive funds through Title IV-E of the Social Security Act that previously were

available to be spent only on services such as foster care placements, adoption assistance, and guardianship. States now may use the funds for time-limited prevention services for children at imminent risk of entering foster care, for parents or kin caregivers of such children, and for pregnant or parenting youth in foster care.

Family Code sec. 263.001 defines "substitute care" as the placement of a child who is in the conservatorship of the Department of Family and Protective Services in care outside the child's home. The term includes foster care, institutional care, adoption, placement with a relative of the child, or commitment to the Texas Juvenile Justice Department.

Some have suggested the need to revise initial statutes governing community-based care to increase efficiency and flexibility in the state's foster care system by providing for the statewide implementation of community-based care and family preservation services.

DIGEST:

CSHB 3691 would require the Department of Family and Protective Services (DFPS) to define a statewide strategic plan for implementing community-based foster care in catchment areas and transfer to a single source continuum contractor (SSCC) additional services, including family preservation services, in certain catchment areas.

Definitions. The bill would define "community-based care" as the provision of child welfare services in accordance with state and federal child welfare goals by a contracted, community-based nonprofit or a local governmental entity that included direct case management to prevent entry in foster care; reunify and preserve families; ensure child safety, permanency, and well-being; and reduce future referrals of children or parents to DFPS.

The bill would define "child who is a candidate for foster care" as a child who was at imminent risk of being removed from the child's home and placed into the department's conservatorship because of a continuing danger to the child's physical health or safety caused by an act or failed action of a person entitled to possession of the child but for whom a court

had issued an order allowing the child to remain safely in the child's home or in a kinship placement with the provision of family preservation services.

"Family preservation service" would mean a time-limited, family-focused service provided to the family of a child who was a candidate for foster care or a pregnant or parenting child to prevent or eliminate the need to remove the child and allow the child to remain safely with the child's family, including a service subject to the Family First Prevention Services Act.

"Foster care services" would mean "substitute care" as defined by current law and also would include the assessment and referral of children into a residential placement outside the child's home and the assessment and referral of a child for adoption.

Community-based care implementation plan. In addition to requiring a statewide strategic plan for implementing community-based care, the bill would require the existing implementation plan to:

- include the specific order and rationale for implementing expanded community-based care in the catchment areas of the state;
- include an independent entity's evaluation of each contractor's processes and fiscal and qualitative outcomes concerning the children and families in its care;
- require DFPS to transmit immediately on receipt all required reports and evaluations to the relevant standing committees of the Legislature and the office of the governor; and
- include a specific implementation plan for each catchment area identified for expansion of community-based care that included a timeline to transfer certain services, among other specified provisions.

By August 31 each year, DFPS would have to provide a copy of the implementation plan to the governor, lieutenant governor, House speaker, and presiding officer of each standing committee of the Legislature with

jurisdiction over matters involving the department.

Statewide expansion of community-based foster care. The bill would remove the requirement that the department identify by December 31, 2019, up to eight catchment areas in the state best suited to implement community-based care. Instead, the bill would require the department, by the last day of the state fiscal biennium, to identify the catchment areas in the state where the department would implement community-based care.

Following the implementation of community-based care services in catchment areas, the department would have to retain an independent entity based in the state to conduct an evaluation of the implementation process and the SSCC's performance in each catchment area.

Transfer of services to SSCC. In addition to case management and foster care services, the bill would require DFPS to transfer to the SSCC family preservation services in each catchment area where community-based care had been implemented.

Under the bill, an SSCC could implement its own procedures to execute the department's statutory duties the contractor assumed and would not be required to follow the department's procedures to execute the department duties the contractor assumed.

Qualifications and selection of SSCC. The bill would revise the SSCC qualifications to require a nonprofit entity to have a majority of the entity's board members residing in the state.

The bill would require DFPS to request local stakeholders in a catchment area to provide any necessary information about the area that would assist the department in preparing the department's request for bids and proposals and selecting a contractor to provide community-based care in the area.

The bill also would revise the required readiness review process for determining the ability of an SSCC to provide certain services in a

catchment area.

SSCC contract. The bill would expand the required contract provisions with an SSCC to include a timeline for implementing family preservation services and creating a risk-sharing funding model that strategically balanced financial risk between the state and the contractor, among other specified provisions.

Data access and standards governance council. Under the bill, the standards governance council would have to develop protocols for the access, management, and security of data shared with an independent entity retained to conduct independent evaluations. The protocols would have to ensure the entity had full, unrestricted access to all data necessary to perform an evaluation.

The council would have to include SSCCs with active contracts and department employees who provided data, legal, information technology, and child protective services. The council would have to meet at least quarterly each year.

Performance outcomes. The bill would require the department to implement a process to monitor and evaluate an SSCC's performance in achieving specified contract outcomes in a catchment area.

Report. The department would be required to regularly report on its and each SSCC's performance in providing services based on specified performance outcomes. The report would have to include:

- a comparison of the SSCC's performance with the department's performance in the catchment area during the 10 years preceding the date the contractor began providing services in that area;
- a comparison of the performances of service providers for each region of the state for the time covered by the report; and
- information provided by SSCCs.

The report would have to be prepared, to the extent feasible, using

existing data and department resources and be published at least annually.

By October 1, 2022, DFPS would have to publish the initial report as required by the bill.

The bill would take effect September 1, 2021, and would apply only to a contract for foster care services entered into or renewed on or after that date.

NOTES: According to the Legislative Budget Board, the bill would have a negative impact of about \$3.4 million to general revenue through fiscal 2023.