

BILL ANALYSIS

C.S.H.B. 1359
By: Naishtat
Human Services
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The Department of Family and Protective Services has established a cap for payments to adopting parents under the adoption assistance program of \$545 per month, despite federal law authorizing adoption subsidies to exceed this cap to match the amount that the child would have received in foster care. "Hard-to-place" foster children with special needs are not adopted as readily because the current subsidies provided by the Department of Family and Protective Services are too low to meet the needs of prospective adoptive parents.

C.S.H.B. 1359 requires the executive commissioner of the Health and Human Services Commission to adopt rules providing for the maximum amount of adoption subsidy for certain children to be equal to the amount that would have been paid to the foster parent of the child based on the child's foster care service level at the time of the adoption. The adoption subsidy under this subsection applies only to a child who, based on factors specified in the department rules, the department determines would have remained in the state's foster care system until the child's 18th birthday and who would have received foster care payments.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 1 (Section 162.304, Family Code) of this bill.

ANALYSIS

C.S.H.B. 1359 requires the executive commissioner of the Health and Human Services Commission to adopt rules providing that the maximum subsidy provided by the Health and Human Services Commission toward the adoption of a child under an adoption assistance agreement is equal to the amount that would have been paid to the foster parent based on the child's foster care service level on the date that the Department of Protective and Regulatory Services and the adoptive parent entered into an agreement if the child remained in foster care on that date.

C.S.H.B. 1359 provides that the adoption subsidy authorized under this subsection only applies to a child who, based on factors specified in department rules, the department determines would otherwise have been expected to remain in the state's foster care until the child's 18th birthday and for whom the state would have made foster care payments. C.S.H.B. 1359 permits the department to consider the child's mental or physical disability, age, and membership in a sibling group, and the number of prior placement disruptions the child has experienced when determining whether a child is eligible for the adoption subsidy authorized under this Act.

C.S.H.B. 1359 requires the department, when determining the amount of adoption subsidy authorized under this Act, to use the minimum amount required to be paid to a foster parent for a child at the same service level as the child who is subject to the adoption assistance agreement, and prohibits the amount to include any amount that would have been paid to a child-placing agency if the child had remained in the state's foster care.

C.S.H.B. 1359 applies only to an adoption assistance agreement entered into on or after the effective date of this Act.

C.S.H.B. 1359 80(R)

EFFECTIVE DATE

September 1, 2007.

COMPARISON OF ORIGINAL TO SUBSTITUTE

C.S.H.B. 1359 requires that the adoption subsidy payment would be the required minimum foster care payment that would have been paid to the foster parent excluding any amounts that would have been paid to a child-placing agency. The bill, as filed, provides for the adoption subsidy to include the amount paid to a child-placing agency.

C.S.H.B. 1359 requires that the department determine that the foster child would otherwise be expected to remain in state foster care and to receive foster care payments. In addition, C.S.H.B. 1359 authorizes the department to use factors specified in department rules when determining whether a child is eligible to receive the adoption subsidy authorized by this Act. The bill, as filed, requires that the department has exercised due diligence for at least 18 months and is unable to locate an appropriate adoptive parent other than the child's foster parent in order for the child to be eligible to receive the higher adoption subsidy.