

BILL ANALYSIS

Senate Research Center

S.B. 723
By: Lucio
Health & Human Services
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Most child welfare experts and organizations agree that when a child is removed from his or her home by Child Protective Services, a relative foster care setting is generally preferable over a non-familial placement. However, a family may not have the financial resources to care for a family member who has been removed from his or her home. Whereas non-familial foster parents receive a daily payment for children in their care, kinship providers receive no more than a one time payment of \$1,000 and a yearly stipend of \$500. As a result, many children who have extended family willing to care for them must instead live in an alternative substitute care setting, ultimately creating more hardship for the child and costing the state more money.

S.B. 723 requires the Department of Family and Protective Services (DFPS) to note and record when a potential placement of a child in foster care with a willing relative caregiver is not possible strictly for financial reasons. This bill requires DFPS to note any related payments to which the family or potential caregiver would be entitled and the amount of financial support that would be necessary to make the placement viable. The information collected and reported by DFPS will allow DFPS and the legislature to better understand whether there is a need to increase the kinship care provider subsidy, and if so, by how much.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 4 (Section 42.0449, Human Resources Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter I, Chapter 264, Family Code, by adding Section 264.759, as follows:

Sec. 264.759. RECORDS OF PLACEMENTS THAT FAIL FOR FINANCIAL REASONS. (a) Requires the Department of Family and Protective Services (DFPS) to record each instance in which a placement under this subchapter is not able to be made solely because the relative or designated caregiver cannot afford to care for the child. Requires DFPS to document, if possible, the amount of monetary assistance and reimbursement to which the caregiver would be entitled and the amount of assistance that would have made the placement affordable for the caregiver.

(b) Requires DFPS to compile statistics based on information recorded under this section and report annually to the legislature regarding proposed placements that are not made in the preceding year due to financial reasons. Authorizes the report required under this subsection to be made in conjunction with other reports DFPS is required to submit to the legislature.

SECTION 2. Amends Article 5.04, Code of Criminal Procedure, by adding Subsection (a-1), to require a peace officer who investigates a family violence allegation or who responds to a disturbance call that may involve family violence to determine whether the address of the persons involved in the allegation or call matches the address of a current licensed foster home or verified agency foster home listed in the Texas Crime Information Center (center).

SECTION 3. Amends Article 5.05, Code of Criminal Procedure, by adding Subsection (a-1) and amending Subsection (b), as follows:

(a-1) Requires a peace officer who investigates a family violence incident or who responds to a disturbance call that may involve family violence, in addition to the written report required under Subsection (a), to make a report to DFPS if the location of the incident or call, or the known address of a person involved in the incident or call, matches the address of a current licensed foster home or a verified agency foster home as listed in the center. Authorizes the report under this subsection to be made orally or electronically and sets forth certain requirements for the report.

(b) Entitles DFPS to access the records relating to any person who is 14 years of age or older and who resides in a licensed foster home or a verified agency foster home.

SECTION 4. Amends Subchapter C, Chapter 42, Human Resources Code, by adding Sections 42.0448 and 42.0449, as follows:

Sec. 42.0448. NOTIFICATION OF FAMILY VIOLENCE CALLS. Requires DFPS to notify a child-placing agency of each family violence report it receives under Article 5.05 (Reports and Records), Code of Criminal Procedure, that occurred at an agency foster home verified by the child-placing agency or involves a person who resides at an agency foster home verified by the child-placing agency.

Sec. 42.0449. REQUIRED ACTIONS AFTER NOTICE OF FAMILY VIOLENCE CALL. Requires the executive commissioner (executive commissioner) of the Health and Human Services Commission (HHSC) to adopt rules specifying the actions that the department, an independent foster home, and a child-placing agency are required to take after receiving notice of a family violence report under Article 5.05, Code of Criminal Procedure, or Section 42.0448 to ensure the health, safety, and welfare of each child residing in the licensed foster home or verified agency foster home.

SECTION 5. Amends Section 42.045, Human Resources Code, by adding Subsection (d), to require an independent foster home and a child-placing agency to notify DFPS of any change of address for a licensed foster home or a verified agency foster home within the earlier of two business days or 72 hours of the date the foster home changes its address.

SECTION 6. Amends Subchapter C, Chapter 42, Human Resources Code, is amended by adding Section 42.0451 as follows:

Sec. 42.0451. DATABASE OF FOSTER HOMES; INFORMATION PROVIDED TO DEPARTMENT OF PUBLIC SAFETY. (a) Requires DFPS to maintain a database, required to be updated on a regular basis, of licensed foster homes and verified agency foster homes including the current address for each licensed or verified home as reported to DFPS.

(b) Requires DFPS to make the database available to the Department of Public Safety (DPS) for the purposes of Subsection (c).

(c) Requires DPS to include the information provided under Subsection (b) in the center database and establish a procedure by which a peace officer or employee of a law enforcement agency who provides DFPS with a street address is automatically provided information as to whether the address is licensed as a foster home or verified as an agency foster home under this chapter.

(d) Provides that information provided to DPS under this section is confidential and not subject to disclosure under Chapter 552 (Public Information), Government Code.

SECTION 7. Amends Subchapter C, Chapter 42, Human Resources Code, by adding Section 42.0561, as follows:

Sec. 42.0561. INFORMATION RELATING TO FAMILY VIOLENCE REPORTS. Requires DFPS or a child-placing agency, before DFPS may issue a license or registration for a foster home or a child-placing agency is authorized to issue a verification certificate for an agency foster home, to obtain information relating to each family violence report at the applicant's residence to which a law enforcement agency responded during the 12 months preceding the date of the application. Requires the applicant to provide the information on a form prescribed by DFPS.

SECTION 8. Makes application of Section 264.759, Family Code, as added by this Act, prospective.

SECTION 9. Requires DFPS to establish the database and a method for exchanging information required by Section 42.0451, Human Resources Code, as added by this Act, not later than September 1, 2008.

SECTION 10. Makes application of Section 42.0561, Human Resources Code, as added by this Act, prospective.

SECTION 11. Effective date: upon passage or September 1, 2007.