

BILL ANALYSIS

C.S.H.B. 1629
By: Naishtat
Human Services
Committee Report (Substituted)

BACKGROUND AND PURPOSE

In 2007, approximately 200 youths who were in the legal custody of the Department of Family and Protective Services (DFPS) due to allegations of child abuse or neglect had also been committed to Texas Youth Commission (TYC) facilities due to delinquent behavior. Currently, the Family Code does not specifically provide for situations in which children are simultaneously managed by both DFPS and TYC. This leads to a lack of coordination between DFPS and TYC in terms of the continuation of services for foster children who have been committed to a facility. With little overlap in communication, services, or long-term plan coordination between DFPS and TYC, the needs of these youths may be left unmet by either system.

C.S.H.B. 1629 sets forth requirements regarding the care of a child for which DFPS has been appointed managing conservator and who has been committed to a TYC facility to coordinate the medical, legal, and procedural care of the child.

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 and the Texas Youth Commission in SECTIONS 15 and 16 of this bill.

ANALYSIS

C.S.H.B. 1629 amends the Family Code to specify that consent for medical, dental, psychological, and surgical treatment of a child for whom the Department of Family and Protective Services (DFPS) has been appointed managing conservator and who is committed to the Texas Youth Commission (TYC) is governed by provisions relating to medical care for children in foster care. The bill authorizes a juvenile court conducting a disposition hearing involving a child for whom DFPS has been appointed managing conservator to communicate with the court having continuing jurisdiction over the child before the disposition hearing and to allow the parties to the suit affecting the parent-child relationship in which DFPS is a party to participate in this communication. The bill authorizes a court to appoint a guardian ad litem or attorney ad litem for a child if an order appointing DFPS as managing conservator of the child does not continue the appointment of the child's guardian ad litem or attorney ad litem and the child is committed to TYC or released under supervision by TYC.

C.S.H.B. 1629 includes commitment to TYC in the definition of "substitute care." The bill adds to the purposes for which a court is required to hold a review hearing the review, for a child committed to TYC, of the child's commitment in TYC or release under supervision by TYC in a suit affecting the parent-child relationship in which DFPS or an authorized agency has been appointed by the court or designated in an affidavit of relinquishment of parental rights as the temporary or permanent managing conservator of a child. The bill authorizes a child committed to TYC to attend a permanency or placement review hearing in person, by telephone, or by videoconference. The bill requires an evaluation of whether the needs for treatment and

education of a child committed to or released under TYC supervision are being met, a description using information provided by TYC of the child's progress in any rehabilitation program administered by TYC, and a recommendation for other plans or services to meet the child's needs to be included in the permanency progress report or placement review report required for a permanency or placement review hearing. The bill requires a court at each permanency and placement review hearing to determine whether these needs are being met. The bill prohibits a court required to conduct placement review hearings for a child for whom DFPS has been appointed permanent managing conservator from dismissing a suit affecting the parent-child relationship filed by DFPS regarding the child while the child is committed to or released under TYC supervision, unless the child is adopted or permanent managing conservatorship of the child is awarded to an individual other than DFPS.

C.S.H.B. 1629 adds children, including children for whom DFPS has been appointed managing conservator and who are committed to TYC, among those individuals whose participation in certain court proceedings is to be facilitated by means of teleconferencing and videoconferencing.

C.S.H.B. 1629 amends the Human Resources Code to require TYC to disclose records and other information to DFPS, concerning a child for whom DFPS has been appointed managing conservator as provided by DFPS rules. The bill requires TYC to ensure that if DFPS has been appointed managing conservator of a child, DFPS is given the same right as the child's parent under the parent's bill of rights.

C.S.H.B. 1629 requires a TYC caseworker to submit a written report regarding the commitment to TYC of a child for whom DFPS has been appointed managing conservator to the court, DFPS, or any attorney ad litem or guardian ad litem appointed for the child, and any volunteer advocate appointed for the child, not later than the 10th day before the date of a permanency hearing or a placement review hearing. The bill requires the report to include the results of any assessments of the child during the child's commitment to TYC, information regarding the child's placement in particular programs administered by TYC, and a description of the child's progress in programs administered by TYC.

C.S.H.B. 1629 requires TYC and the executive commissioner of the Health and Human Services Commission to jointly adopt rules to ensure that a child for whom DFPS has been appointed managing conservator receives appropriate services while the child is committed to or released under TYC supervision. The bill requires the rules to require TYC and DFPS to cooperate in providing appropriate services to a child for whom DFPS has been appointed managing conservator while the child is committed to or released under TYC supervision, including medical care; mental health treatment and counseling; education, including special education; case management; drug and alcohol abuse assessment or treatment; sex offender treatment; and trauma informed care. The bill requires the rules to require DFPS to provide TYC with access to a child's health and education passports and require a child's caseworker to visit the child in person at least once each month while the child is committed to TYC. The bill requires the rules to require TYC to provide DFPS with relevant health and education information regarding a child; permit communication, including in person, by telephone, and by mail, between a child committed to TYC and the appointed managing conservator of the child, as well as the attorney ad litem, guardian ad litem, and volunteer advocate for the child; provide DFPS and any attorney ad litem or guardian ad litem for the child timely notice of a meeting designed to develop or revise an individual case plan for the child, a medical appointment at which a person authorized to consent to medical care must participate as required by state law in accordance with any participation protocols to which DFPS and TYC agree, an education meeting, including admission, review, or dismissal meetings for a child receiving special education, a grievance or disciplinary hearing for the child, a report of abuse or neglect of the child, and a significant medical condition of the child. The bill requires the rules to require DFPS and TYC to participate in transition planning for a child through release from detention, release under supervision, and discharge. The bill requires the executive commissioner of the Health and

Human Services Commission and the Texas Youth Commission to adopt these rules not later than April 30, 2010.

EFFECTIVE DATE

On passage, or, if the act does not receive the necessary vote, the act takes effect September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 1629 differs from the original by omitting references to the appointment of an authorized agency or a licensed child-placing agency as the managing conservator of a child who has also been committed to the Texas Youth Commission. The substitute differs from the original by clarifying that a suit in which a juvenile court is authorized to allow certain parties to participate in communication with the court about a child's disposition must be a suit to which DFPS is a party. The substitute differs from the original by adding the requirement that a permanency progress report and a placement review report include a description, using information provided by TYC, of the child's progress in any rehabilitation program administered by TYC, whereas the original requires the reports to include an evaluation of whether the child's rehabilitation needs are being met.

C.S.H.B. 1629 differs from the original by adding an exception to the provision prohibiting a court required to conduct placement review hearings for a child for whom DFPS has been appointed permanent managing conservator from dismissing the suit while the child is committed to or under the supervision of TYC if the child is adopted or permanent managing conservatorship has been awarded to an individual other than DFPS. The substitute includes a clarification not included in the original that the disclosure of records and other information concerning a child for whom DFPS has been appointed managing conservator by TYC is required to be conducted as provided by DFPS rules. The substitute differs from the original by requiring TYC to provide DFPS with relevant health and education information regarding a child, whereas the original required TYC to provide DFPS with information required for a child's health or education passport. The substitute adds a provision not included in the original providing that the notification of a medical appointment for the child must be in accordance with any participation protocols to which DFPS and TYC agree. The substitute differs from the original by changing the date by which the executive commissioner of the Health and Human Services Commission and the Texas Youth Commission are required to adopt rules for the disclosure of records and other information concerning a child for whom DFPS has been appointed managing conservator from December 1, 2009 to April 30, 2010.