

BILL ANALYSIS

C.S.H.B. 4426
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Human Services
Committee Report (Substituted)

BACKGROUND AND PURPOSE

A child who is the victim of abuse, neglect, or abandonment is eligible for state and federal protections. A child, who is not a citizen and the victim of abuse, is subject to specific federal immigration procedures and protections by a special form of immigration relief called Special Immigrant Juvenile Status (SIJS).

Under federal law, a child is eligible for SIJS until the child becomes 21. The Department of Family and Protective Services currently pursues SIJS relief for children in its care whose permanency plans do not include family reunification. The lack of consistency between "age out" dates in the state and federal statute complicates access to this relief for abused and abandoned children in Texas.

Currently, a child in conservatorship in Texas who may be eligible for SIJS faces obstacles in pursuing federal SIJS claims due to limitations on conservatorship in the Family Code, specifically the limitation on continued state conservatorship beyond a child's 18th birthday. SIJS statutes require that family reunification be eliminated as an option. By the time a court finds that family reunification is no longer an option, a child may have aged out of conservatorship. A child who has aged out of state conservatorship without attaining SIJS status is unable to obtain federal health care and transition funds for which the child would otherwise be eligible, resulting in a greater burden on local and state resources.

C.S.H.B. 4426 authorizes a young adult who is not a citizen or permanent resident of the United States to file a suit in a court that has family law jurisdiction requesting the court to declare that the young adult has been abused, neglected, or abandoned and otherwise meets the requirements for special immigrant status as defined by federal law and extends the jurisdiction of certain courts over issues relating to such a declaration.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 4426 amends the Family Code to authorize a young adult who is not a citizen or permanent resident of the United States to file a suit in a court that has family law jurisdiction requesting the court to declare that the young adult has been abused, neglected, or abandoned and otherwise meets the requirements for special immigrant status as defined by federal law. The bill requires the court, on presentation of proper evidence, to render an order declaring that the young adult is court-dependent; reunification with one or both of the young adult's parents is not viable due to abuse, neglect, or abandonment, as defined by state or federal law; and it is not in the young adult's best interest to be returned to the young adult's or the parent's previous country of origin or country of last habitual residence.

C.S.H.B. 4426 authorizes a court that renders such an order to retain jurisdiction over the young adult in cases of abuse, neglect, or abandonment, until the earliest of the young adult's 21st birthday; the date the young adult is granted lawful permanent resident status; the date an appeal of the denial of an application for permanent residency based on a petition for special immigrant status is denied; or if an appeal is not filed, the day after the last day to file an appeal of the denial of an application for permanent residency based on a petition for special immigrant status. The bill makes conforming changes to provide for extended court jurisdiction over a person with respect to issues relating to the person's special immigrant status in suits affecting the parent-child relationship, suits by a governmental entity to protect the health and safety of a child, and juvenile justice proceedings.

C.S.H.B. 4426 amends the Government Code to require the Office of Court Administration of the Texas Judicial System to track the number of cases in which a young adult has requested a court order relating to the young adult's special immigrant status, develop a form to be used to report that information, and make the form available on the office's Internet website. The bill prescribes the information required to be included on the form for each case. The bill prohibits the office from collecting any personally identifiable information relating to the young adult, including the young adult's name, the young adult's address, or the case number of the declaratory action. The bill requires an attorney representing a young adult to complete and file the form with the clerk of the court and requires the clerk, on receipt of a completed form, to stamp the form with the date the form was received and send the form to the office.

C.S.H.B. 4426 defines "young adult," for purposes of this bill, as a person who is at least 18 years of age and younger than 21 years of age. The bill makes its provisions expire on August 31, 2015.

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. 4426 adds provisions not in the original authorizing a young adult who is not a citizen or permanent resident of the United States to file a suit to declare that the young adult has been abused, neglected, or abandoned and extending the jurisdiction of certain courts over such a person. The substitute adds a provision not in the original requiring the Office of Court Administration of the Texas Judicial System to track the number of cases in which a young adult has requested a court order relating to the young adult's special immigrant status and procedures for collecting and reporting that information. The substitute adds a provision not in the original defining "young adult." The substitute adds a provision not in the original providing for the expiration of its provision.

C.S.H.B. 4426 omits provisions included in the original specifying that in the context of a suit affecting the parent-child relationship filed by any party, "child" includes a person who is not a citizen of the United States, is under 21 years of age, does not have a parent in the United States with the ability to provide care for or maintain physical custody of the person due to abuse, neglect, or abandonment, and is either enrolled in a program leading toward a high school diploma or high school equivalency certificate or is subject to a court order naming a managing conservator for the person. The substitute omits provisions included in the original authorizing service of citation on the parents of a child to be waived as provided by federal law if the suit involves a child who is not a United States citizen and who is described by certain provisions of the federal Immigration and Nationality Act. The substitute omits provisions included in the original adding to the circumstances under which the Department of Family and Protective Services is required to continue to pay the cost of foster care for a child for whom the department provides care, including medical care, for a child classified as a special immigrant under certain

provisions of the federal Immigration and Nationality Act and setting the date until which the department is required to pay the cost of foster care for such a child as the later of the date special immigrant status for the child is revoked by the United States Department of Homeland Security or the date the child becomes a permanent resident of the United States.