

BILL ANALYSIS

C.S.H.B. 1114
By: Parker
Public Education
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Each year thousands of Texas children receive state services that investigate likely cases of severe abuse. Interested parties contend that countless others are also abused, yet their abuse goes undetected, depriving the children of needed medical attention and state intervention. These interested parties conclude that training more people to identify child abuse, particularly those who interact with children, such as school personnel and child-care providers, better equips Texas to tackle this problem. C.S.H.B. 1114 directs school districts, child-placing agencies, and day-care centers to adopt and implement a policy addressing the abuse of children and provide minimum training on the prevention and recognition of child abuse to their employees.

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 4 of this bill.

ANALYSIS

Section 531.0055, Government Code, as amended by Chapter 198 (H.B. 2292), Acts of the 78th Legislature, Regular Session, 2003, expressly grants to the executive commissioner of the Health and Human Services Commission all rulemaking authority for the operation of and provision of services by the health and human services agencies. Similarly, Sections 1.16-1.29, Chapter 198 (H.B. 2292), Acts of the 78th Legislature, Regular Session, 2003, provide for the transfer of a power, duty, function, program, or activity from a health and human services agency abolished by that act to the corresponding legacy agency. To the extent practical, this bill analysis is written to reflect any transfer of rulemaking authority and to update references as necessary to an agency's authority with respect to a particular health and human services program.

C.S.H.B. 1114 amends the Education Code to require the policy addressing sexual abuse of children adopted and implemented by each school district and included in a district improvement plan and in any related informational handbook provided to district students and parents also to address maltreatment of children beyond sexual abuse and to require each open-enrollment charter school also to adopt and implement such a policy. The bill specifies that the methods required to be addressed by the policy include methods for increasing staff awareness, rather than teacher awareness, of issues regarding such abuse and maltreatment prevention techniques, in addition to knowledge of likely warning signs indicating that a child may be a victim. The bill requires the policy's methods for increasing awareness regarding sexual abuse and other maltreatment of children to include strategies for coordination between the district or charter school and the appropriate community organizations and research-based training and other educational opportunities concerning prevention techniques for and recognition of child sexual abuse and maltreatment for parents of district and charter school students, educators, including counselors and coaches, and other district and charter school professional staff members.

C.S.H.B. 1114 requires the training for educators and other professional staff members to be provided, as part of a new employee orientation, to new district and charter school staff members

and to include training concerning factors indicating a child is at-risk for sexual abuse or other maltreatment; likely warning signs indicating a child may be a victim of sexual abuse or maltreatment; internal procedures for seeking assistance for a child who is at-risk for sexual abuse or maltreatment, including referral to a school counselor, a social worker, or another mental health professional; methods for reducing that risk; and community organizations that have relevant existing research-based programs that are able to provide training or other education for school district or charter school staff members, students, and parents. The bill authorizes such training to be provided annually to any district or charter school staff member. The bill requires each school district and charter school, for any such training, to maintain records that include the name of each staff member who participated. The bill requires a district or charter school that determines there are not sufficient resources to provide the training to work in conjunction with a community organization to provide the training at no cost to the district or charter school. The bill authorizes the training to be included in district staff development.

C.S.H.B. 1114 prohibits a district or charter school employee from being subject to any disciplinary proceeding resulting from an action taken in compliance with the policy addressing sexual abuse and other child maltreatment and establishes that the bill's requirements for that policy are considered to involve an employee's judgment and discretion and are not considered ministerial acts for purposes of immunity from liability. The bill prohibits provisions setting out the policy from being considered to limit the immunity from liability and provides for the meaning of "other maltreatment" as it relates to the policy by reference to the Human Resources Code.

C.S.H.B. 1114 includes among the elements required for each school district's district improvement plan provisions for the policy addressing sexual abuse and other maltreatment of children and requires the plan, until the policy is implemented, to include provisions for describing progress toward adopting and implementing the policy. The bill makes these provisions applicable beginning with the 2011-2012 school year.

C.S.H.B. 1114 amends the Human Resources Code, in a provision requiring a licensed child-care facility to provide certain training for staff members, to specify that the requirement applies to a child-placing agency or day-care center, rather than a licensed facility. The bill requires the training to include recognition of symptoms of, and the responsibility and procedure of reporting suspected occurrences of, sexual abuse and other maltreatment of children, rather than child abuse, neglect, and sexual molestation, as well as prevention techniques for sexual abuse and other maltreatment of children. The bill requires the type of such training to be determined by rule of the executive commissioner of the Health and Human Services Commission and requires the training to be provided for at least an hour annually and to include training concerning factors indicating a child is at-risk for sexual abuse or other maltreatment; likely warning signs indicating a child may be a victim of sexual abuse or other maltreatment; internal procedures for reporting sexual abuse or other maltreatment; and community organizations that have relevant existing research-based training programs that are able to provide training or other education for child-placing agency or day-care center staff members, children, and parents. The bill authorizes a child-placing agency or day-care center that determines it does not have sufficient resources to provide the required training to contact a department licensing employee to obtain information concerning community organizations that will provide such training at no cost to the agency or center.

C.S.H.B. 1114 requires each child-placing agency or day-care center to adopt and implement a policy addressing the sexual abuse and other maltreatment of children. The bill requires the policy to address methods for increasing agency and center staff and parent awareness of issues regarding and prevention techniques for sexual abuse and other maltreatment of children, including knowledge of warning signs indicating that a child may be a victim, and actions that, after contacting an agency or center, the parent of a child who is a victim of sexual abuse or other maltreatment should take to obtain assistance and intervention. The bill requires the methods for increasing awareness of issues regarding and prevention techniques for child sexual

abuse and other maltreatment to include strategies for coordination between the child-placing agency or day-care center and appropriate community organizations and the training regarding prevention techniques, symptom recognition, and reporting procedures provided to child-placing agency and day-care center personnel. The bill provides for the meaning of "other maltreatment" as it relates to the regulation of certain facilities, homes, and agencies that provide child-care services by reference to the Family Code. The bill makes conforming changes.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2011.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 1114 differs from the original by requiring the training for educators and other professional staff members concerning prevention techniques for and recognition of sexual abuse and other maltreatment of children to be provided, as part of a new employee orientation, to new school district and open-enrollment charter school staff members and authorizing the training to be provided annually to any district or charter school staff member, whereas the original requires such training to be provided annually. The substitute differs from the original by requiring each district and charter school to maintain training participation records for any training concerning prevention techniques for and recognition of sexual abuse and all other maltreatment, whereas the original requires each district and charter school to maintain training participation records for each year of annual training until at least the third anniversary of the training.

C.S.H.B. 1114 contains provisions not included in the original prohibiting a district or charter school employee from being subject to any disciplinary proceeding resulting from an action taken in compliance with the policy addressing sexual abuse and other child maltreatment; establishing that the requirements of the policy are considered to involve an employee's judgment and discretion and are not considered ministerial acts for purposes of immunity from liability; and prohibiting provisions setting out the policy from being considered to limit the immunity from liability.

C.S.H.B. 1114 contains provisions not included in the original providing for the meaning of "other maltreatment" with regard to the policies addressing sexual abuse and other maltreatment of children and the regulation of certain facilities, homes, and agencies that provide child-care services.

C.S.H.B. 1114 contains a specification not included in the original that the requirement that a licensed child-care facility provide certain training for staff members applies to a child-placing agency or day-care center.

C.S.H.B. 1114 contains a provision not included in the original requiring the type of training regarding prevention techniques, symptom recognition, and reporting procedures for sexual abuse and all other maltreatment of children to be determined by rule of the executive commissioner of the Health and Human Services Commission. The substitute omits a provision included in the original requiring the training to be based on scientific research and contains a specification not included in the original that the training be provided for at least an hour annually, rather than at least annually, as in the original. The substitute differs from the original by including among the elements required to be in the training internal procedures for reporting sexual abuse or other maltreatment, whereas the original includes in the training internal procedures for seeking assistance for a child who is at-risk for abuse, neglect, sexual abuse, or other maltreatment, including referral to a counselor, a social worker, or another mental health professional.

C.S.H.B. 1114 differs from the original by authorizing a child-placing agency or day-care center, if the agency or center determines that it does not have sufficient resources to provide the

required training, to contact a department licensing employee to obtain information concerning community organizations that will provide such training at no cost to the agency or center, whereas the original requires a licensing facility that determines it does not have sufficient resources to provide the required training to work in conjunction with a community organization to provide the training at no cost to the facility. The substitute omits a provision included in the original requiring the facility to maintain training participation records.

C.S.H.B. 1114 differs from the original by making provisions related to the required adoption and implementation of policies addressing the sexual abuse and other maltreatment of children apply to each child-placing agency or day-care center, whereas the original makes those provisions apply to each child-care facility. The substitute differs from the original by requiring the policy to address actions that, after contacting a child-placing agency or day-care center, the parent of a child who is a victim of sexual abuse or other maltreatment should take to obtain assistance and intervention, whereas the original requires the policy to address actions that a child and a parent of a child younger than five years of age who is a victim of sexual abuse or other maltreatment should take to obtain assistance and intervention. The substitute omits a provision included in the original requiring the policy to address available counseling options for children affected by sexual abuse or other maltreatment.

C.S.H.B. 1114 differs from the original in nonsubstantive ways reflective of certain bill drafting conventions and by making clarifying and conforming changes.