

BILL ANALYSIS

C.S.H.B. 1854
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Human Services
Committee Report (Substituted)

BACKGROUND AND PURPOSE

When appropriate, the Department of Family and Protective Services (DFPS) may approve a parental child safety placement agreement as part of a safety plan for a parent to prevent placement of the parent's child into foster care. In the agreement, the parent of a child identifies another home in which it is agreed the child can stay during the duration of an investigation by DFPS or while receiving family-based safety services. Usually, a child will stay in this alternative placement until it is safe to return home or another permanent arrangement is made.

These parental child safety placement arrangements, while subject to policies established by DFPS, are not adequately addressed in statute and interested parties have recently expressed concerns relating to the specificity of an agreement, the ability of a prospective caregiver to provide adequate care, the child's access to necessary medical care and school attendance while placed in another home, parental visitation rights, and the termination of an agreement. C.S.H.B. 1854 seeks to address these concerns.

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. 1854 amends the Family Code to define "parental child safety placement" as a temporary out-of-home placement of a child with a caregiver that is made by a parent or other person with whom the child resides in accordance with a written agreement approved by the Department of Family and Protective Services (DFPS) that ensures the safety of the child during an investigation by DFPS of alleged abuse or neglect of the child or while the parent or other person is receiving services from DFPS. The bill requires a parental child safety placement agreement to include terms that clearly state the respective duties of the person making the placement and the caregiver, including a plan for how the caregiver will access necessary medical treatment for the child and the caregiver's duty to ensure that a school-age child is enrolled in and attending school; conditions under which the person placing the child may have access to the child, including how often the person may visit and the circumstances under which the person's visit may occur; the duties of DFPS; the date on which the agreement will terminate unless terminated sooner or extended to a subsequent date as provided under DFPS policy; and any other term DFPS determines necessary for the safety and welfare of the child. The bill requires a parental child safety placement agreement to contain a specified statement, in boldface type and capital letters, stating that agreement to the parental child safety placement is not an admission of child abuse or neglect on the part of the person making the parental child safety placement and cannot be used against the person as an admission of child abuse or neglect. The bill requires a parental child safety placement agreement to be in writing and signed by the person making the placement and the caregiver. The bill requires DFPS to provide a written copy of the agreement to the person making the placement and the caregiver.

C.S.H.B. 1854 requires DFPS to develop policies and procedures for evaluating a potential caregiver's qualifications to care for a child, including policies and procedures for evaluating the criminal history of a caregiver, allegations of abuse or neglect against a caregiver, and a caregiver's home environment and ability to care for the child. The bill requires a DFPS caseworker who performs an evaluation of a caregiver to document the results of the evaluation in the department's case records. The bill requires DFPS to notify the person who proposed the caregiver and the proposed caregiver of the reasons for the department's decision if, after performing an evaluation of a potential caregiver, DFPS determines that it is not in the child's best interests to be placed with the caregiver. The bill prohibits DFPS from disclosing the specifics of any criminal history or allegations of abuse or neglect in the notification unless the caregiver agrees to the disclosure.

C.S.H.B. 1854 requires DFPS, before closing a case in which DFPS has approved a parental child safety placement, to develop a plan with the person who made the placement and the caregiver for the safe return of the child to the person who placed the child with the caregiver or to another person legally entitled to possession of the child, as appropriate. The bill authorizes DFPS to close a case with a child still living with the caregiver in a parental child safety placement if DFPS has determined that the child could safely return to the parent or person who made the parental child safety placement, but the parent or other person agrees in writing for the child to continue to reside with the caregiver. The bill requires DFPS, if DFPS determines that the child is unable to safely return to the parent or person who made the parental child safety placement, to determine whether the child can remain safely in the home of the caregiver or whether DFPS must seek legal conservatorship of the child in order to ensure the child's safety. The bill requires DFPS, before DFPS is authorized to close a case with a child still living in a parental child safety placement, to determine and document in the case file that the child can safely remain in the placement without the department's supervision; obtain the written agreement of the parent or person who made the parental child safety placement, if possible; obtain the caregiver's agreement in writing that the child can continue living in the placement after DFPS closes the case; and develop a written plan for the child's care after DFPS closes the case. The bill specifies that DFPS is not required to comply with the requirements relating to the closure of a case with a child still living in a parental child safety placement if DFPS has filed suit seeking to be named conservator of the child to protect the health and safety of the child and has been denied conservatorship of the child.

C.S.H.B. 1854 specifies that its provisions do not prevent DFPS from removing a child at any time from a person who makes a parental child safety placement or from a caregiver if removal is determined to be necessary by DFPS for the safety and welfare of the child under statutory provisions relating to procedures in a suit by a governmental entity to protect the health and safety of the child. The bill requires DFPS, if DFPS files suit seeking to be named managing conservator of the child while a parental child safety placement agreement is in effect, to give priority to placing the child with the parental child safety placement caregiver as long as the placement is safe and available.

C.S.H.B. 1854 defines "caregiver" and "parental child safety placement agreement."

EFFECTIVE DATE

September 1, 2011.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 1854 contains a provision not included in the original requiring a parental child safety placement agreement to contain a specified statement, in boldface type and capital letters, stating that agreement to the parental child safety placement is not an admission of child abuse or neglect on the part of the person making the parental child safety placement and cannot be used against the person as an admission of child abuse or neglect.

C.S.H.B. 1854 contains a provision not included in the original requiring DFPS, if DFPS files suit seeking to be named managing conservator of the child while a parental child safety placement agreement is in effect, to give priority to placing the child with the parental child safety placement caregiver as long as the placement is safe and available.

C.S.H.B. 1854 differs from the original in nonsubstantive ways.