

BILL ANALYSIS

C.S.H.B. 3234
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Human Services
Committee Report (Substituted)

BACKGROUND AND PURPOSE

According to a recent news article, some former foster children are having difficulties obtaining their foster records from the Department of Family and Protective Services (DFPS). In some cases, a records request could be left pending for the better part of a year. While certain records requests, such as a request for a file relating to a legal case, must be given priority over a records request made by a former foster child, having to wait an extended period of time to receive such records can be very inconvenient. In many cases a former foster child needs the information to prove the person's legal name or to apply for certain identification cards, and the records may be necessary for the person to fully understand the person's experience in the foster care system.

C.S.H.B. 3234 seeks to address this issue by requiring DFPS to establish guidelines that prioritize requests to release case records.

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 1 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. 3234 amends the Family Code to require the Department of Family and Protective Services (DFPS) by rule to establish guidelines that prioritize requests to release case records, including those made by an adult previously in the department's managing conservatorship. The bill specifies that DFPS is not required to release a copy of the case record except as provided by law and DFPS rule. The bill defines "case record."

EFFECTIVE DATE

September 1, 2011.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 3234 contains a provision not included in the original requiring the Department of Family and Protective Services (DFPS) by rule to establish guidelines that prioritize requests to release case records. The substitute omits a provision included in the original requiring DFPS to assemble and prepare a child's redacted case record for release to the child not later than the 30th day before the date the child is discharged from foster care. The substitute differs from the original, in a provision establishing that DFPS is not required to release a copy of a case record except as provided by law, by also specifying release as provided by DFPS rule. The substitute omits a provision included in the original establishing the applicability of the bill's provisions.