

BILL ANALYSIS

C.S.H.B. 3399
By: Raymond
Human Services
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Foster children under the care of the Department of Family and Protective Services are often placed with foster families without sufficient regard for the child's particular needs. Interested parties assert that in many cases, placement contractors consider only the most basic factors, such as age and sex of the child. While this method may work well for some, there is concern that the needs of foster children with a history of trauma or behavioral health issues deserve more consideration than is presently being given. Such children often require specialized care and attention and, due to their past victimization or behavioral health requirements, can prove challenging to properly place. Research shows a high number of placements can severely disrupt a child's development, and interested parties assert that a child who is difficult to place can sometimes experience dozens of placements. C.S.H.B. 3399 seeks to improve stability and permanency in the placement process for foster children.

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. 3399 amends the Family Code to require a substitute care provider with whom the Department of Family and Protective Services (DFPS) contracts to provide substitute care services for a child to notify DFPS if the child has a placement change. The bill requires the notice to be sent at the earliest time the provider is otherwise required to provide notice of a change of the child's placement, state the reason for the placement change, and include the provider's recommendation regarding a future placement for the child that would increase the child's opportunity to attain stability.

C.S.H.B. 3399 requires DFPS to identify each child for whom DFPS has been appointed temporary or permanent managing conservator who has had two or more placements during the preceding 12 months. The bill requires DFPS, for each child identified, to collect the following information:

- the number of placement changes for the child;
- whether a placement change occurred because the child ran away, the caregiver or child-placing agency responsible for placing the child requested the change, the child was hospitalized for medical or mental health reasons, or the child refused to remain in the placement; and
- if a placement change occurred due to such a reason, the child's name and age, the address of the child's current placement, the court in which the suit affecting the parent-child relationship involving the child is pending, the county and DFPS region in which the court is located, the reason for each placement change, the child-placing agency responsible for placing the child, and the level of care the child was determined to

require.

The bill requires DFPS, at least once each month, to prepare a report from the collected information and to provide the report to the commissioner of DFPS and the assistant commissioner for child protective services. The bill requires DFPS to include the compiled aggregated data in DFPS's annual data report.

C.S.H.B. 3399 includes among the required elements of the placement review report filed with the court for a child under the care of DFPS to identify any concerns of DFPS related to the stability of the child's placement and barriers to sustaining the child's placement, including any reason for which a substitute care provider has requested a placement change.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 3399 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

No equivalent provision.

SECTION 1. Chapter 263, Family Code, is amended by adding Subchapter D-1 to read as follows:

SUBCHAPTER D-1. PLACEMENT STABILITY

No equivalent provision.

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. The heading to Chapter 263, Family Code, is amended to read as follows:
CHAPTER 263. REVIEW OF PLACEMENT OF CHILDREN UNDER CARE OF DEPARTMENT OF FAMILY AND PROTECTIVE [~~AND REGULATORY~~] SERVICES

SECTION 2. Chapter 263, Family Code, is amended by adding Subchapter D-1 to read as follows:

SUBCHAPTER D-1. PLACEMENT STABILITY

Sec. 263.351. NOTICE OF PLACEMENT CHANGE. A substitute care provider with whom the department contracts to provide substitute care services for a child shall notify the department if the child has a placement change. The notice must:
(1) be sent at the earliest time the provider is otherwise required to provide notice of a change of the child's placement;
(2) state the reason for the placement change; and
(3) include the provider's recommendation regarding a future placement for the child that would increase the child's opportunity to attain stability.

Sec. 263.351. PLACEMENT STABILITY CONFERENCE. (a) The department shall hold a placement stability conference for each child for whom the department has been appointed temporary or permanent managing conservator after the department receives notice of a second failed placement for the child. The goal of the placement stability conference is to determine a placement for the child that will provide the greatest opportunity for future stability and permanency.
(b) The department shall hold the placement stability conference as soon as practicable after the child's second failed placement, but not later than the 10th day after the date the department receives notice of the failed placement.
(c) The department may hold additional placement stability conferences for the child after any subsequent failed placement at the department's discretion.
(d) A child's attorney ad litem, guardian ad litem, or court-appointed volunteer advocate may request the department to hold additional placement stability conferences for the child.

No equivalent provision.

Sec. 263.352. NOTICE. (a) Not later than the second day after the date the department receives notice that a second placement for a child has failed, the department shall give notice of the placement stability conference to:
(1) each person listed in Section 263.301(b); and
(2) the child, if the child is at least four years of age.
(b) The notice may be given by any appropriate means, including by mail, e-mail, telephone, or other electronic means.

No equivalent provision.

Sec. 263.353. ATTENDANCE AT PLACEMENT STABILITY CONFERENCE. (a) The child's attorney ad litem, the child's guardian ad litem, the child protective services caseworker assigned to the child, and any court-appointed volunteer advocate for the child shall attend the placement stability conference.
(b) Each person entitled to receive notice of the placement stability conference may attend the conference, except that a child's parents may attend the conference only if the department determines it is appropriate.
(c) A person may attend a placement stability conference in person or by use of telephone

No equivalent provision.

conference call or video conference call.

Sec. 263.354. RECOMMENDATION FOR PLACEMENT. (a) At the placement stability conference, the child's caseworker shall make a recommendation for the placement of the child that will provide the greatest opportunity for future stability and permanency.

(b) The child's attorney ad litem, the child's guardian ad litem, and any court-appointed volunteer advocate for the child may make a placement recommendation for the child.

(c) The child's attorney ad litem, the child's guardian ad litem, the child's caseworker, and any court-appointed volunteer advocate for the child must all agree to the placement.

(d) If the child's attorney ad litem, the child's guardian ad litem, the child's caseworker, and any court-appointed volunteer advocate reach a unanimous agreement on placement, the child shall be placed in the agreed placement.

No equivalent provision.

Sec. 263.355. JUDICIAL REVIEW OF PLACEMENT. (a) If the child's attorney ad litem, the child's guardian ad litem, the child's caseworker, and any court-appointed volunteer advocate are not able to reach a unanimous agreement regarding the child's placement at the placement stability conference, the court shall decide the placement for the child.

(b) Not later than the next business day after the date of a placement stability conference at which there is not a unanimous agreement for the placement of the child, the department shall file a motion with the court requesting that the court render an order on the child's placement.

(c) The court shall hold a hearing on the child's placement not later than the 12th day after the date the motion for a hearing is filed under Subsection (b).

(d) The department shall provide notice of the hearing to each person listed in Section 263.301(b) not later than the 10th day before the date of the hearing. The department shall give notice as provided by Rule 21a, Texas Rules of Civil Procedure.

(e) The following are entitled to present evidence and be heard at the hearing:

(1) the department;

(2) the child's attorney ad litem;

(3) the child's guardian ad litem; and

(4) any court-appointed volunteer advocate for the child.

No equivalent provision.

(f) The child shall attend a hearing under this section unless the court specifically excuses the child's attendance. The court may consult with the child in a developmentally appropriate manner regarding the child's placement if the child is at least four years of age. Failure by the child to attend a hearing does not affect the validity of an order rendered at the hearing.

(g) The court shall conduct the hearing in any manner the court considers appropriate. The court may require the department or another party to submit written reports to assist the court in making the court's determination.

(h) At the conclusion of the hearing, the court shall render an order providing for the child's placement that is in the child's best interests and would provide the greatest opportunity for future stability and permanency.

Sec. 263.356. PERMANENCY PLANNING MEETINGS. The department is not required to hold a scheduled permanency planning meeting for a child if a placement stability conference for the child has been held not earlier than the 30th day before the date a permanency planning meeting is scheduled.

Sec. 263.357. PLACEMENT TRACKING SYSTEM. (a) The department shall identify each child for whom the department has been appointed temporary or permanent managing conservator who has had two or more placements during the preceding 12 months. For each child identified under this subsection, the department shall collect the following information:

(1) the number of placement changes for the child;

(2) whether a placement change occurred for any of the following reasons:

(A) the child ran away;

(B) the caregiver or child-placing agency responsible for placing the child requested the change;

(C) the child was hospitalized for medical or mental health reasons; or

(D) the child refused to remain in the placement; and

(3) if a placement change occurred due to a reason listed under Subdivision (2):

(A) the child's name;

(B) the child's age;

(C) the address of the child's current placement;

No equivalent provision.

Sec. 263.352. PLACEMENT TRACKING SYSTEM. (a) The department shall identify each child for whom the department has been appointed temporary or permanent managing conservator who has had two or more placements during the preceding 12 months. For each child identified under this subsection, the department shall collect the following information:

(1) the number of placement changes for the child;

(2) whether a placement change occurred for any of the following reasons:

(A) the child ran away;

(B) the caregiver or child-placing agency responsible for placing the child requested the change;

(C) the child was hospitalized for medical or mental health reasons; or

(D) the child refused to remain in the placement; and

(3) if a placement change occurred due to a reason listed under Subdivision (2):

(A) the child's name;

(B) the child's age;

(C) the address of the child's current placement;

(D) the court in which the suit affecting the parent-child relationship involving the child is pending;

(E) the county and department region in which the court is located;

(F) the reason for each placement change;

(G) the child-placing agency responsible for placing the child;

(H) the child protective services program administrator assigned to the child;

(I) any centralized placement coordinator or centralized placement unit assigned to the child; and

(J) the level of care the child was determined to require.

(b) At least once each month, the department shall prepare a report from the information collected under Subsection (a) and provide the report to the commissioner of the department and the assistant commissioner for child protective services.

(c) The department shall include the aggregated data compiled under Subsection (b) in the department's annual data report.

No equivalent provision.

(D) the court in which the suit affecting the parent-child relationship involving the child is pending;

(E) the county and department region in which the court is located;

(F) the reason for each placement change;

(G) the child-placing agency responsible for placing the child; and

(H) the level of care the child was determined to require.

(b) At least once each month, the department shall prepare a report from the information collected under Subsection (a) and provide the report to the commissioner of the department and the assistant commissioner for child protective services.

(c) The department shall include the aggregated data compiled under Subsection (b) in the department's annual data report.

SECTION 3. Section 263.502(c), Family Code, is amended to read as follows:

(c) The placement review report must identify the department's permanency goal for the child and must:

(1) evaluate whether the child's current placement is appropriate for meeting the child's needs;

(2) evaluate whether efforts have been made to ensure placement of the child in the least restrictive environment consistent with the best interest and special needs of the child if the child is placed in institutional care;

(3) contain a transition plan for a child who is at least 16 years of age that identifies the services and specific tasks that are needed to assist the child in making the transition from substitute care to adult living and describes the services that are being provided through the Transitional Living Services Program operated by the department;

(4) evaluate whether the child's current educational placement is appropriate for meeting the child's academic needs;

(5) identify other plans or services that are needed to meet the child's special needs or circumstances;

(6) describe the efforts of the department or

authorized agency to place the child for adoption if parental rights to the child have been terminated and the child is eligible for adoption, including efforts to provide adoption promotion and support services as defined by 42 U.S.C. Section 629a and other efforts consistent with the federal Adoption and Safe Families Act of 1997 (Pub. L. No. 105-89);

(7) for a child for whom the department has been named managing conservator in a final order that does not include termination of parental rights, describe the efforts of the department to find a permanent placement for the child, including efforts to:

(A) work with the caregiver with whom the child is placed to determine whether that caregiver is willing to become a permanent placement for the child;

(B) locate a relative or other suitable individual to serve as permanent managing conservator of the child; and

(C) evaluate any change in a parent's circumstances to determine whether:

(i) the child can be returned to the parent; or

(ii) parental rights should be terminated; ~~and~~

(8) with respect to a child committed to the Texas Juvenile Justice Department [~~Youth Commission~~] or released under supervision by the Texas Juvenile Justice Department [~~Youth Commission~~]:

(A) evaluate whether the child's needs for treatment and education are being met;

(B) describe, using information provided by the Texas Juvenile Justice Department [~~Youth Commission~~], the child's progress in any rehabilitation program administered by the Texas Juvenile Justice Department [~~Youth Commission~~]; and

(C) recommend other plans or services to meet the child's needs; and

(9) identify the department's concerns, if any, related to the stability of the child's placement and barriers to sustaining the child's placement, including any reason for which a substitute care provider has requested a placement change.

SECTION 2. (a) Except as provided by Subsection (b) of this section, this Act takes effect January 1, 2014.

(b) Section 263.357, Family Code, as added

SECTION 4. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article

by this Act, takes effect September 1, 2013.

III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2013.