

## BILL ANALYSIS

Senate Research Center

H.B. 4  
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Health & Human Services  
4/13/2017  
Engrossed

### AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

H.B. 4 amends current law relating to monetary assistance provided by the Department of Family and Protective Services to certain relative or designated caregivers; creates a criminal offense; and creates a civil penalty.

### RULEMAKING AUTHORITY

Rulemaking authority expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 2 (Section 264.7551, Family Code) of this bill.

### SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 264.755, Family Code, by amending Subsections (a), (b), and (c) and adding Subsections (b-1) and (b-2), as follows:

(a) Requires the Department of Family and Protective Services (DFPS) to, subject to the availability of funds, enter into a caregiver assistance agreement with each relative or other designated caregiver to provide monetary assistance and additional support services to the caregiver. Requires that the monetary assistance and support services to be based on a family's need, as determined by Subsection (b) and rules adopted by the executive commissioner of the Health and Human Services Commission (executive commissioner).

(b) Requires DFPS to disburse monetary assistance to caregivers under this section as follows:

(1) authorizes a caregiver that has a family income that is less than or equal to 300 percent of the federal poverty level to receive monetary assistance from DFPS as follows:

(A) authorizes a caregiver that has a family income that is less than or equal to the federal poverty level to receive monetary assistance not exceeding 75 percent of DFPS' daily basic foster care rate for the child;

(B) authorizes a caregiver that has a family income that is greater than the federal poverty level but that is less than or equal to 200 percent of the federal poverty level to receive monetary assistance not exceeding 50 percent of DFPS' daily basic foster care rate for the child; and

(C) authorizes a caregiver that has a family income that is greater than 200 percent of the federal poverty level but that is less than or equal to 300 percent of the federal poverty level to receive monetary assistance not exceeding 25 percent of DFPS' daily basic foster care rate for the child;

(2) authorizes a caregiver that has a family income that is greater than 300 percent but less than or equal to 500 percent of the federal poverty level to receive a one-time cash payment as provided by Subsection (b-2) for each child placed with the caregiver not later than the 60th day after the date of the initial placement of a child or a sibling group; and

(3) a caregiver that has a family income greater than 500 percent of the federal poverty level is not eligible for monetary assistance under this section.

(b-1) Requires DFPS to disburse monetary assistance provided to a caregiver under Subsection (b)(1) in the same manner as DFPS disburses payments to a foster parent.

(b-2) Prohibits the amount of the one-time cash payment provided to a caregiver under Subsection (b)(2), rather than cash payment as determined by DFPS, from exceeding \$1,000 for each child placed with the caregiver. Requires that the payment for placement of a sibling group be at least \$1,000 for the group, but provides that it may not exceed \$1,000 for each child in the group. Deletes existing text requiring the cash payment to be provided on the initial payment of each child with the caregiver and is provided to assist the caregiver in purchasing essential child-care items such as furniture and clothing.

(c) Authorizes monetary assistance and additional support services provided under this section to include, for a caregiver receiving monetary assistance under Subsection (b)(2), reimbursement of other expenses, as determined by rules adopted by the executive commissioner, not to exceed \$500 per year for each child.

SECTION 2. Amends Subchapter I, Chapter 264, Family Code, by adding Section 264.7551, as follows:

Sec. 264.7551. FRAUDULENT AGREEMENT; CRIMINAL OFFENSE; CIVIL PENALTY. (a) Provides that a person commits an offense if, with intent to defraud or deceive DFPS, the person knowingly makes or causes to be made a false statement or misrepresentation of a material fact that allows a person to enter into a caregiver assistance agreement.

(b) Provides that an offense under Subsection (a) is a state jail felony unless it is shown on the trial of the offense that the person has previously been convicted under this section, in which case the offense is a felony of the third degree.

(c) Authorizes the actor, if conduct that constitutes an offense under this section also constitutes an offense under any other law, to be prosecuted under this section, the other law, or both.

(d) Requires the appropriate county prosecuting attorney to be responsible for the prosecution of an offense under this section.

(e) Provides that a person who engaged in conduct described by Subsection (a) is liable to the state for a civil penalty of \$1,000. Requires the Texas attorney general to bring an action to recover a civil penalty as authorized by this subsection.

(f) Authorizes the commissioner of DFPS to adopt rules necessary to determine whether fraudulent activity that violates Subsection (a) has occurred.

SECTION 3. (a) Provides that Section 264.755, Family Code, as amended by this Act, applies to a caregiver assistance agreement entered into before, on, or after the effective date of this Act, except as provided by Subsection (b).

(b) Requires DFPS, if a person who has a family income that is less than or equal to 300 percent of the federal poverty level entered into a caregiver assistance agreement with DFPS on or after June 1, 2017, but before the effective date of this Act, and received monetary assistance under the agreement from DFPS, to consider the money paid to the person to be a credit against the disbursement of caregiver assistance funds, and prohibits DFPS from beginning to disburse money to the person as authorized by Section 264.755, Family Code, as amended by this Act, until the credit has been offset.

(c) Authorizes a person, if a person who has a family income that is less than or equal to 300 percent of the federal poverty level enters into a caregiver assistance agreement with DFPS, obtains permanent managing conservatorship of a child before the effective date of this Act, and meets all other eligibility requirements, to continue to receive the \$500 annual reimbursement until the earlier of certain dates.

SECTION 4. Effective date: September 1, 2017.