

BILL ANALYSIS

C.S.H.B. 1709
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Human Services
Committee Report (Substituted)

BACKGROUND AND PURPOSE

There have been calls for greater accountability of surrogate parents for certain children in the conservatorship of the Department of Family and Protective Services. C.S.H.B. 1709 seeks to address these calls by requiring the child's educational decision-maker and caseworker to be notified when such a surrogate parent is appointed and by revising the procedures for appointing another person as the surrogate parent in place of a surrogate parent who is not properly performing the duties of surrogacy.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

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. 1709 amends the Education Code to establish that the appointment of a surrogate parent for a child who is homeless or in substitute care for purposes of special education decision-making is an event that may significantly impact the education of a child for which public school districts, campuses, and open-enrollment charter schools must provide notice to the child's educational decision-maker and caseworker.

C.S.H.B. 1709 limits the prohibition against appointing a state employee as a surrogate parent for purposes of special education decision-making to employees of the Texas Education Agency or any other agency involved in the child's education or care. The bill requires a district, as soon as practicable after appointing a surrogate parent for those purposes, to provide written notice of the appointment to the child's educational decision-maker and caseworker.

C.S.H.B. 1709 revises the actions that a district must take in the case of a court-appointed surrogate parent the district determines is not properly performing the duties of surrogacy by removing the district's duty to appoint another person as the surrogate for the child and requiring the district to consult with the Department of Family and Protective Services (DFPS) instead regarding whether another person should be appointed to serve as the surrogate parent for the child. The bill conditions the requirement for DFPS to promptly notify the court after receiving such notice from the district on DFPS agreeing with the district that the court-appointed surrogate parent is unable or unwilling to properly perform the duties of surrogacy and specifies that the notification is regarding the agreement. The bill requires the court, as soon as practicable after receiving the notice, to review the appointment and enter any orders necessary to ensure the child has a surrogate parent who performs the required duties of surrogacy.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2019.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1709 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute changes the entity to whom a school district is required to provide notice after appointing a surrogate parent from DFPS to a child's educational decision-maker and caseworker.

The substitutes changes the trigger for DFPS to notify the court regarding a surrogate parent who is not properly performing the surrogate duties from a determination by DFPS that the surrogate is unable or unwilling to perform the surrogate duties to DFPS agreeing with the school district that the surrogate is unable or unwilling to perform those duties.