

BILL ANALYSIS

C.S.S.B. 642
By: West
Human Services
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The relinquishment avoidance program is a joint endeavor between the Health and Human Services Commission (HHSC) and the Department of Family and Protective Services (DFPS). The program was designed as a funding mechanism to provide residential treatment to children discharged from a psychiatric hospital who are still in need of residential treatment services and deemed too dangerous to return home.

Over the past seven years, the program has enabled a number of children to access needed services. However, problems have been identified related to the development and implementation of the program. Long wait times can prevent access to services in times of crisis when they are needed most, and parents are reportedly hesitant to seek services through the program because the process currently requires referrals to go through DFPS and an investigation of abuse or neglect to be conducted.

C.S.S.B. 642 seeks to address these issues by authorizing a child to be referred directly to the relinquishment avoidance program by a local mental or behavioral health authority, specifying that a child abuse or neglect investigation may be required for program participation only if there is an allegation of abuse or neglect, and requiring HHSC and DFPS to jointly adopt certain guidance and protocols for the program, including emergency eligibility procedures for children at immediate risk of relinquishment.

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.S.B. 642 amends the Family Code to prohibit the Health and Human Services Commission (HHSC) from requiring the Department of Family and Protective Services (DFPS) to conduct a child abuse or neglect investigation before allowing a child to participate in the relinquishment avoidance program unless there is an allegation of abuse or neglect of the child. The bill defines "relinquishment avoidance program" as the HHSC program that provides mental health services to a child with a severe emotional disturbance without the child entering the managing conservatorship of DFPS.

C.S.S.B. 642 authorizes a local mental or behavioral health authority to refer a child directly to the relinquishment avoidance program without first contacting DFPS. The bill requires DFPS

and HHSC to jointly adopt comprehensive guidance for providers and families that describes the following:

- how to access services under the relinquishment avoidance program; and
- the child's and family's rights when the child's parent or legal guardian relinquishes the child in order to obtain mental health services for the child or accesses services under the relinquishment avoidance program;

The bill requires DFPS and HHSC to publish the guidance on their websites and to make the guidance available to caseworkers and families with a child who has a severe emotional disturbance.

C.S.S.B. 642 requires DFPS and HHSC to jointly adopt clear and concise protocols for families at risk of relinquishing a child for the sole purpose of accessing mental health services for the child. The protocols must do the following:

- include procedures for determining eligibility for the relinquishment avoidance program, including emergency eligibility procedures for children who are at immediate risk of relinquishment;
- include procedures for applying for the program;
- identify who will manage the case of a family eligible for the program;
- identify the funding and resources for the program; and
- identify the role of each party involved in the program, including DFPS, HHSC, contracted residential treatment centers, and local mental and behavioral health authorities.

The bill requires DFPS and local mental and behavioral health authorities to follow the adopted protocols.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2021.

COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE

While C.S.S.B. 642 may differ from the engrossed in minor or nonsubstantive ways, the following summarizes the substantial differences between the engrossed and committee substitute versions of the bill.

The substitute changes the bill's effective date from September 1, 2021, as in the engrossed version, to on passage or September 1, 2021, if the bill does not receive the necessary vote for immediate effect.