

BILL ANALYSIS

S.B. 1578
By: Kolkhorst
Juvenile Justice & Family Issues
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The Forensic Assessment Center Network, which originated as a joint project of the Department of Family and Protective Services (DFPS) and The University of Texas Health Science Center, provides medical determinations and consultations in connection with DFPS investigations of suspected child abuse and neglect. The network's physicians are often also called upon to provide expert testimony in DFPS cases regarding whether a child's injuries were caused by abuse or neglect. There have been calls to reassess the relationship between DFPS and the network and to better ensure that individuals against whom a protective order is sought are afforded adequate rights with regard to certain DFPS and court determinations that depend on the opinion of a medical professional. S.B. 1578 seeks to answer those calls by prohibiting the removal of children from their homes and their placement into conservatorship, in certain circumstances, based solely on the opinion of a medical professional under contract with DFPS who did not conduct a physical examination of the child. The bill also provides for an evaluation of DFPS use of the network.

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

S.B. 1578 amends the Family Code to require the Department of Family and Protective Services (DFPS), with the assistance of the Supreme Court of Texas Children's Commission, to do the following:

- evaluate the use of the Forensic Assessment Center Network by DFPS; and
- develop joint recommendations to improve the evaluation of agreements between DFPS and the network and the best practices for using assessments provided by the network in connection with DFPS abuse and neglect investigations.

The bill requires DFPS, not later than September 1, 2022, to prepare and submit to the legislature a written report of its findings and recommendations, including any recommendations for legislative or other action. These provisions expire September 1, 2023.

S.B. 1578 authorizes a court, in making a determination whether a child is or has been a victim of abuse or neglect at the close of a hearing on a protective order application for the child, to consider the opinion of a medical professional obtained by an individual against whom the protective order is sought.

S.B. 1578 prohibits the following from being based solely on the opinion of a medical professional under contract with DFPS who did not conduct a physical examination of the child:

- a court's determination that there is an immediate danger to the physical health or safety of a child or that the child has been a victim of neglect or sexual abuse as grounds for the following:
 - the issuance of a temporary order for the conservatorship of a child; or
 - a temporary restraining order or attachment of a child authorizing a governmental entity to take possession of a child in a suit brought by a governmental entity; or
- an authorized DFPS representative, a law enforcement officer, or a juvenile probation officer taking possession of a child in an emergency without a court order in a suit brought by a governmental entity.

S.B. 1578 authorizes a court to consider the opinion of a medical professional obtained by the child's parent, managing conservator, possessory conservator, guardian, caretaker, or custodian in making a determination whether there is an immediate danger to the physical health or safety of a child, with respect to the child's placement at the conclusion of a full adversary hearing held in either of the following original suits affecting the parent-child relationship:

- a suit filed by a governmental entity that requests permission to take possession of a child without prior notice and hearing; or
- a suit filed by a governmental entity after taking possession of a child in an emergency without a court order.

EFFECTIVE DATE

September 1, 2021.