

BILL ANALYSIS

C.S.H.B. 1085
By: Hull
Human Services
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Parental child safety placement agreements were originally designed to balance the safety needs of a child during an abuse and neglect investigation while minimizing the trauma if they were to be temporarily removed. Parents who are being investigated by child protective services can be asked to place their child with another trusted individual known by the child if there is a possible current safety risk or if the investigation is unable to quickly determine the level of risk. However, that balance has shifted toward an unintended mechanism of threat and compliance when used to coerce families into temporarily giving up their children during the investigation or face a state action. These agreements are lasting longer than their intended time frames and their use has created what some have referred to as "hidden foster care." C.S.H.B. 1085 seeks to address these issues by limiting the amount of time that a placement agreement may seek to keep a child out of their own home; ensuring the agreement specifies terms of communication, not just visitation, with the child; and allowing for the placement to use existing state resources, such as daycare and other vetted caregivers, without risking adverse action such as being deemed an incapable or unsafe placement. C.S.H.B. 1085 also requires information related to these placements to be included in existing reports where appropriate to allow for better data collection and help inform future policymaking.

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. 1085 amends the Family Code to revise the procedures relating to a parental child safety placement agreement entered into with the Department of Family and Protective Services (DFPS) as follows:

- requires the terms of an agreement to include the conditions under which the person placing the child may communicate with the child, including the frequency and methods of communication allowed and the circumstances under which the communication may occur;
- establishes that an agreement automatically terminates on the earlier of the 30th day after the date the agreement is signed or the child is placed with the caregiver;
- authorizes DFPS, on the expiration of an agreement and for good cause, to enter into one additional placement agreement for the child;
- on entering into the additional agreement, requires DFPS to reevaluate the terms and conditions of the original agreement and notify the parents of their right to:

- refuse to enter into the agreement; and
- be represented by an attorney or a court-appointed attorney if the parent is indigent and if DFPS subsequently seeks a court order to require the parents to participate in applicable child welfare services;
- prohibits a requirement of an agreement from imposing an unreasonable burden on the child, the child's parent or legal guardian, or a caregiver who is the subject of or a party to the agreement;
- requires DFPS to provide existing resources to a caregiver who enters into an agreement to use to assist with maintaining the child's safety and meeting the child's needs;
- prohibits DFPS from withdrawing approval for an agreement based solely on the caregiver's use of DFPS resources as a means to maintain the placement;
- authorizes a caregiver who enters into an agreement to use a relative or friend of the caregiver to assist with caregiving as a means to maintain the placement if DFPS has completed a background check on the person and approved the person to provide the assistance; and
- requires DFPS to consider trauma-informed practices in developing the agreement.

C.S.H.B. 1085 requires DFPS, where appropriate, to include children who are separated from a parent or legal guardian under a parental child safety placement agreement in any report, including those submitted to a federal agency. The bill requires DFPS to report the number of cases in which a court orders the parent, managing conservator, guardian, or other member of the child's household of a child who is placed with a caregiver under a parental child safety placement to participate in services.

EFFECTIVE DATE

September 1, 2023.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 1085 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute omits the provision in the introduced authorizing a caregiver who enters into an agreement to use DFPS resources, including respite care, without DFPS express approval to maintain the safety and meet the needs of the child and requires DFPS instead to provide existing resources to the caregiver for those purposes.

The substitute includes a provision absent from the introduced authorizing a caregiver who enters into an agreement to use a relative or friend of the caregiver to assist with caregiving as a means to maintain the placement under certain circumstances.

Whereas the introduced requires DPS to include children who are placed with a caregiver under a placement agreement in any report in which DFPS is required to report the number of children in the child protective services system who are removed from the children's home, the substitute is less specific about where to include this information by requiring DFPS to include children who are separated from a parent or legal guardian under an agreement in any report where that inclusion would be appropriate.