

BILL ANALYSIS

H.B. 2541
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Judiciary & Civil Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

An interim report by the Department of Family and Protective Services (DFPS) in collaboration with the Children's Commission and with feedback from Court Appointed Special Advocates and other stakeholders identified the need to standardize best practices for court-appointed guardians and attorneys in cases where a child is living in or will be placed in a residential treatment center (RTC). Placement in an RTC does not always meet the individual psychological, emotional, or development needs of a child in the foster care system. One contributing factor to this is the difficulty faced by some court-appointed guardians and attorneys in accessing all the information about the child necessary to successfully advocate for the child's needs. The report also found the need to standardize best practices by court-appointed guardians and attorneys including by ensuring that both elicit the child's opinion on their placement, advise the child of DFPS's placement request, and advocate for the child's wishes before the court. H.B. 2541 seeks to address these issues by requiring that court-appointed attorneys and guardians have access to the ability to review all relevant information about whether the placement is in the best interest of the child, including by reviewing the child's psychological needs assessment and recent incident reports. The legislation would require both court-appointed attorneys and guardians to meet with children to elicit their opinions on their placement prior to hearings and would allow both to request a hearing with DFPS on the appropriateness of the placement.

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

H.B. 2541 amends the Family Code to require a child's guardian ad litem in a suit affecting the parent-child relationship to elicit in a developmentally appropriate manner the child's opinion of and concerns regarding the child's current or proposed placement.

H.B. 2541, with respect to such a child who is or may be placed in a residential treatment center as defined by the bill, a qualified residential treatment program as defined by federal law, or a similar treatment setting, requires the guardian ad litem to do the following:

- review any available information related to the child's needs, including the child and adolescent needs and strengths assessment, any psychological evaluations, discharge notices from current or past placements, recent incident reports, and counseling notes;

- review any available information regarding whether the placement is appropriate to meet the child's specific needs; and
- provide to the court by report or testimony a recommendation regarding the placement that is in the best interest of the child.

Moreover, the bill authorizes the guardian of such a child, as appropriate, to request a placement conference and participate in any conferences conducted by the Department of Family and Protective Services (DFPS) or the child's treatment team related to initial and ongoing placement of the child in the applicable setting.

H.B. 2541, with respect to a child's attorney ad litem in a suit affecting the parent-child relationship with respect to a child who is considered for placement in such a residential treatment center, a qualified residential treatment program, or a similar treatment setting, to require the attorney to, as follows:

- review any available information related to the child's needs, including the child and adolescent needs and strengths assessment, any psychological evaluations, discharge notices from current or past placements, recent incident reports, and counseling notes;
- review any available information regarding whether the placement is appropriate to meet the child's specific needs;
- meet with the child before any hearing to allow the attorney ad litem to prepare for the hearing in accordance with the child's expressed representation objectives and to elicit, in a developmentally appropriate manner, the child's opinion of and concerns regarding the child's current or proposed placement;
- advise the child in a developmentally appropriate manner regarding DFPS's request or recommendation for placement and the likelihood of the request being granted; and
- advocate to the court for the child's specific desires regarding the requested placement in accordance with the attorney's duties, as applicable.

Moreover, the bill authorizes the attorney, as appropriate, to request a placement conference and participate in any conferences conducted by DFPS or the child's treatment team related to initial and ongoing placement of the child in the applicable setting unless there is good cause shown for excluding the attorney ad litem.

H.B. 2541 entitles an attorney ad litem appointed to represent the interests of a parent to participate in any case staffing conducted by DFPS in which the parent is invited to participate and that relates to a placement in a such a residential treatment center or a qualified residential treatment program.

H.B. 2541 adds a definition of "residential treatment center," for purposes of statutory provisions governing the review of placement of children under DFPS care, to specify that such a center is a general residential operation licensed under state law as a child-care facility that provides care for seven or more children for 24 hours a day, including facilities known as residential treatment centers and emergency shelters.

EFFECTIVE DATE

September 1, 2023.