

## **BILL ANALYSIS**

C.S.S.B. 1864  
By: Middleton  
Human Services  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Because current law does not specify the priority for the placement of a child in the conservatorship of the Department of Family and Protective Services (DFPS), both the courts and DFPS have stated that the placement of children with family is first priority only at the conclusion of adversary hearings. Children should always be placed with family first, if safe and appropriate.

It is common that family may not be located or paternity may not be confirmed at the beginning of a case. It often takes months to adjudicate the paternity of a father because DFPS utilizes the attorney general for paternity testing. In the meantime, DFPS will not place a child with an alleged father or the alleged father's family. Once paternity is established, the inability of that father or the father's family to serve as a placement should change, but it often does not because DFPS does not want to move the child.

C.S.S.B. 1864 seeks to remedy this issue by clearly establishing the order of priority for DFPS in making a placement decision for a child in DFPS conservatorship, with placement with a person related to the child by blood, marriage, or adoption as the first priority.

### **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. 1864 amends the Family Code to require the Department of Family and Protective Services (DFPS), in making the initial or a subsequent placement decision for a child who is younger than 22 years of age and for whom DFPS has been appointed managing conservator before the child's 18th birthday or for a child who is the responsibility of an agency with which DFPS has entered into an agreement to provide the child's care and supervision, to give preference to persons in the following order:

- a person related to the child by blood, marriage, or adoption;
- a person with whom the child has a long-standing and significant relationship;
- a foster home; and
- a general residential operation.

C.S.S.B. 1864 applies only to an initial or subsequent placement decision made by DFPS on or after the bill's effective date.

**EFFECTIVE DATE**

September 1, 2023.

**COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE**

While C.S.S.B. 1864 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.

While both the engrossed and the substitute establish the order of persons to whom DFPS is required to give preference in making a placement decision for a child, the substitute specifies that this order of preference applies to the initial or a subsequent placement decision for a child, whereas the engrossed did not include this specification.

The substitute includes a provision absent from the engrossed establishing that the bill applies only to an initial or subsequent placement decision made by DFPS on or after the bill's effective date.