

BILL ANALYSIS

C.S.S.B. 2548
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Juvenile Justice & Family Issues
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Once a parent is stabilized following the removal of their child from the home, the court can allow a monitored return of the child to the parent. However, Department of Family and Protective Services (DFPS) rules allow the removal of a child from a monitored return on grounds which would not justify an initial removal. C.S.S.B. 2548 seeks to prohibit DFPS from moving a child placed in a parent's home without a court order after proper notice and a hearing and sets out conditions under which the court may order such a move. The bill provides for the move of a child in an emergency and requires a court, after proper notice, to hold a hearing within three days after the child is moved from the home.

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. 2548 amends the Family Code to prohibit the Department of Family and Protective Services (DFPS) from moving a child who has been placed in the home of a parent under a monitored return from that home without a court order after proper notice and a hearing. However, the bill authorizes an authorized representative of DFPS, a law enforcement officer, or a juvenile probation officer to take possession of the child and move the child from the home in an emergency, in accordance with state law authorizing taking possession of a child in an emergency without a court order. The bill requires DFPS, the officer, or probation officer, before moving the child from the home, to the extent practicable, to obtain consent to do so from the child's attorney ad litem and guardian ad litem. If a child is moved from the home in an emergency as authorized, the court, after proper notice, is required to hold a hearing on the move and to do so before the end of the third day after the day the child is moved from the home.

C.S.S.B. 2548 authorizes the court to order a child to be moved from the home or render an order terminating the monitored return or an applicable transition order only if, after proper notice and a hearing, the court finds by a preponderance of evidence that:

- there is an immediate danger to the physical health or safety of the child or the child has been a victim of neglect or sexual abuse;
- continuation in the home would be contrary to the child's welfare; and
- reasonable efforts, consistent with the circumstances and providing for the safety of the child, were made to prevent or eliminate the need to move the child.

C.S.S.B. 2548 revises the requirement for a court, if before dismissal of a suit affecting the parent-child relationship or the commencement of the trial on the merits a child placed under a monitored return with a parent must be moved from that home or the court renders a temporary order terminating the order for the transition of the child back to the parent, to schedule a new date for dismissal of the suit at the time of the move or order as follows:

- clarifies that the requirement applies when a child is placed with a parent and the court renders such a temporary order terminating the transition order or a temporary order terminating the monitored return of the child to the parent and that the scheduling of the new dismissal date for the suit is to be made at the time the order is rendered; and
- changes the parameters for the new dismissal date from not later than the original dismissal date or the 180th day after the date the child is moved or the order is rendered, whichever date is later, to not later than the original or extended dismissal date or the 60th day after the date the order is rendered, whichever date is later.

The bill applies only to a suit affecting the parent-child relationship filed on or after the bill's effective date. A suit affecting the parent-child relationship filed before the bill's effective date is governed by the law in effect on the date the suit was filed, and the former law is continued in effect for that purpose.

EFFECTIVE DATE

September 1, 2023.

COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE

While C.S.S.B. 2548 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.

Whereas the engrossed established that the new dismissal date may not be later than the original or extended dismissal date or the 30th day after the date the order is rendered, whichever date is later, the substitute establishes that the new dismissal date may not be later than the original or extended dismissal date or the 60th day after date the order is rendered, whichever date is later.

While both the engrossed and the substitute prohibit DFPS from moving a child who has been placed in the home of a parent under a monitored return from that home without a hearing, the substitute includes language absent from the engrossed that also requires a court order and proper notice for DFPS to make such a move. Additionally, while both the engrossed and the substitute authorize a court to order a child to be moved from the home or render any other applicable order on making certain findings after a hearing, the substitute also requires proper notice before the court may do so, whereas the engrossed did not require proper notice.