

BILL ANALYSIS

C.S.H.B. 5149
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Judiciary & Civil Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Children in the managing conservatorship of the Department of Family and Protective Services, commonly referred to as foster children, are often subject to various forms of medical, psychological, and personal data collection. The bill author has informed the committee that while some of this data gathering is necessary for ensuring the child's health and safety, there is potential for misuse or overreach in the collection and use of sensitive biological information, such as DNA samples. The bill author has further informed the committee that current law does not explicitly restrict the collection or use of DNA from children in foster care, leaving open the possibility of such samples being used for purposes beyond their immediate care, including criminal investigations or paternity searches, without appropriate consent. C.S.H.B. 5149 seeks to address this issue, safeguard the privacy rights of children in state care, and prevent the misuse of genetic information by prohibiting the collection or use of a child's DNA sample without the written consent of an adult having actual care, control, and possession of the child as the child's primary caregiver or a court order.

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. 5149 amends the Family Code to prohibit the Department of Family and Protective Services (DFPS) from collecting or using a DNA sample from a child in the managing conservatorship of DFPS for any purpose without the written consent of an adult having actual care, control, and possession of the child as the child's primary caregiver or a court order.

EFFECTIVE DATE

September 1, 2025.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 5149 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.

Whereas the introduced prohibited DFPS from using a DNA sample collected from a child in the managing conservatorship of DFPS to perform a search against a DNA database maintained by the Department of Public Safety for the purpose of determining paternity without the written consent of the child's biological mother, the substitute prohibits DFPS from collecting or using a DNA sample from a child in the managing conservatorship of DFPS for any purpose without the following:

- the written consent of an adult having actual care, control, and possession of the child as the child's primary caregiver; or
- a court order.