

BILL ANALYSIS

S.B. 2034
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Human Services
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Single-source continuum contractors (SSCCs) are the local child welfare entities that enter into performance-based contracts with the Department of Family and Protective Services (DFPS) for the provision of the community-based care model, including placement administration and case management for children and families who have been referred for services following an investigation by Child Protective Investigations. The bill sponsor has informed the committee that current law does not grant DFPS the ability to act swiftly if an SSCC does not meet their contractual duties or poses a threat to child safety and well-being, nor is there an expedient manner by which DFPS can ensure the continuity of services and the safety of children under an SSCC's care when there are severe concerns with an SSCC's performance or actions. S.B. 2034 seeks to address this issue by allowing DFPS to petition a court of competent jurisdiction for receivership of an SSCC or any of its parts, divisions, components, or companies which deliver community-based care, enabling the receiver to continue to carry out the contractual duties and to ensure the safety and well-being of the population served.

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

S.B. 2034 amends the Family Code to authorize a court of competent jurisdiction to appoint a receiver for a single-source continuum contractor or any of its parts, divisions, components, or companies on the petition of the Department of Family and Protective Services (DFPS) if any of the following conditions apply:

- after being subject to a quality improvement plan, corrective action plan, or other remedial statutory or contract measures, the contractor continues to fail to satisfactorily perform under the community-based care contract;
- the contractor provides DFPS notice of the contractor's intent to cease operations not later than the 60th day before the date the contractor intends to do so and has not made arrangements for another single-source continuum contractor or DFPS to continue the uninterrupted provision of services under the community-based care contract;
- conditions exist, as determined by DFPS, within the contractor that present an imminent danger to the health, safety, or welfare of the children under DFPS conservatorship in the contractor's care;
- the contractor has failed to provide adequate information to DFPS regarding a child under DFPS conservatorship in the contractor's care;

- the contractor has failed to comply with a court order or incurred a sanction against DFPS due to failure to comply with a court order; or
- the contractor cannot meet or is unlikely to be able to meet financial obligations related to services provided under the community-based care contract, including financial obligations to employees, contractors, or foster parents.

The bill requires a court to give precedence to a petition for the appointment of a receiver under the bill's provisions over other matters and to conduct an evidentiary hearing on such a petition not later than the fifth day after the date the petition is filed. The bill requires DFPS to make reasonable efforts to notify the single-source continuum contractor of the hearing. The bill requires a court to grant the petition on finding that one of the previously described conditions exists and the continued existence of the condition jeopardizes the health, safety, or welfare of a child under DFPS conservatorship. The bill authorizes a court to grant such a petition ex parte. The bill establishes that issuance of a check without sufficient money by the single-source continuum contractor or the existence of delinquent obligations for salaries, utilities, or essential services or commodities for the contractor is prima facie evidence that the contractor cannot meet or is unlikely to be able to meet financial obligations related to services provided under the community-based care contract as provided by the bill.

S.B. 2034 requires a person, to be appointed as a receiver, to be qualified by education, training, or experience to carry out the duties of the receiver and authorizes an appointed receiver to be a DFPS employee, notwithstanding Civil Practice and Remedies Code provisions relating to the qualifications of an appointed receiver. The bill requires a court to appoint a receiver selected from a list of qualified persons developed by DFPS and filed with the court. The bill sets the expiration date for a receivership under the bill's provisions on the 90th day after the date a receiver is appointed, unless DFPS files a petition for a 60-day extension of the receivership with the appointing court on or before the date the receivership expires, and authorizes DFPS to request multiple such extensions. The bill requires DFPS, on or before the 60th day after the date a receiver is appointed and every 60 days thereafter until the expiration or termination of the receivership, to file with the appointing court an assessment of ability of the single-source continuum contractor under receivership to ensure the health, safety, and welfare of the children under DFPS conservatorship in the contractor's care.

S.B. 2034 establishes that an appointed receiver who is a DFPS employee is not required to execute a bond notwithstanding Civil Practice and Remedies Code provisions requiring the execution of a bond before assuming the duties of a receiver. The bill requires a receiver to take all actions ordered by the appointing court and necessary to ensure the continued health, safety, and welfare of children under DFPS conservatorship in the care of the single-source continuum contractor under receivership, which may include the following:

- taking actions reasonably necessary to protect or conserve the assets or property of the contractor;
- using of the property of the contractor for the provision of care and services to children under DFPS conservatorship and their families in the applicable catchment area;
- entering into contracts with or hiring agents or employees to carry out the powers and duties of the receiver;
- directing, managing, hiring, or discharging employees or agents of the contractor; and
- honoring leases, mortgages, and contractual obligations of the contractor as those payments become due during the period of the receivership.

S.B. 2034 establishes that, notwithstanding any other law and to ensure continuous provision of necessary services to children under DFPS conservatorship and their families, a contract entered into by a receiver acting in accordance with the receiver's duties under the bill is not subject to advertising, competitive bidding, or proposal evaluation requirements. The bill requires a receiver to compensate an employee hired in accordance with the bill's provisions at a rate of compensation, including benefits, approved by the appointing court. The bill authorizes a receiver to petition the appointing court for temporary relief from obligations under a contract

entered into by the single-source continuum contractor under receivership if either of the following conditions apply:

- the rent, price, or rate of interest substantially exceeds a reasonable rent, price, or rate of interest at the time the contractor entered into the contract; or
- any material provision of the contract is unreasonable when compared to contracts negotiated under similar conditions.

The bill limits any such relief granted by the court to the life of the receivership, unless otherwise determined by the court.

S.B. 2034 requires an appointed receiver to deposit all money related to the receivership in a separate account and to use that account for all disbursements related to the receivership. The bill requires a payment to a receiver of a sum owed to the single-source continuum contractor under receivership to be considered a payment to the contractor with respect to the discharge of the obligation. The bill requires a receiver who is not a DFPS employee to coordinate with DFPS to ensure the continued health, safety, and welfare of the children in DFPS conservatorship and compliance with all state and federal laws relating to child welfare. The bill requires a receiver to make a reasonable effort to facilitate the continued operation of the community-based care program in the applicable catchment area.

S.B. 2034 requires an appointing court to order compensation for an appointed receiver to be paid by the single-source continuum contractor under receivership, requires DFPS, if the receiver is a DFPS employee, to pay the receiver the compensation ordered, and requires the contractor to reimburse DFPS. The bill establishes that a person does not have a cause of action against an appointed receiver for an action taken within the scope of the receivership unless the cause of action arises from a breach of fiduciary duty or the gross negligence or intentional acts of the receiver. The bill expressly does not waive the sovereign immunity to suit and from liability of DFPS or a DFPS employee acting in an official capacity.

S.B. 2034 establishes that the appointment of a receiver under the bill's provisions does not relieve the single-source continuum contractor under receivership or any employee or agent of the contractor of any of the following:

- civil or criminal liability arising out of an act or omission that occurred before the receiver's appointment;
- an obligation for the payment of taxes, operational or maintenance expenses, mortgages, leases, contractual obligations, or liens; or
- a duty imposed by law.

The bill authorizes a contractor under receivership to sell or lease a facility under receivership, subject to the approval of the appointing court.

S.B. 2034 authorizes the appointing court to terminate a receivership if one of the following conditions applies:

- the court determines that the receivership is no longer necessary because the conditions that gave rise to the receivership no longer exist;
- DFPS has entered into a new contract with a single-source continuum contractor and that contractor is ready and able to assume the duties of the single-source continuum contractor under receivership; or
- DFPS is ready and able to assume the duties of the single-source continuum contractor under receivership.

The bill requires the receiver, not later than the 60th day after the date a receivership is terminated or expires under the bill, unless such time is extended by order of the appointing court, to file with the clerk of the appointing court a full and final and sworn account of all property received by the receiver, all money collected and disbursed, and the expenses of the receivership.

S.B. 2034 defines the following terms:

- "catchment area" by reference to statutory provisions governing community-based care as it relates to child welfare services;
- "community-based care contract" as a contract between a single-source continuum contractor and DFPS or the Health and Human Services Commission (HHSC) under those statutory provisions; and
- "single-source continuum contractor" as an entity that has entered into a contract with DFPS or HHSC under those statutory provisions.

S.B. 2034 amends the Civil Practice and Remedies Code to make a conforming change.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2025.