

SUBJECT: Modifying community-based foster care services

COMMITTEE: Human Services — committee substitute recommended

VOTE: 7 ayes — Raymond, Frank, Keough, Klick, Miller, Swanson, Wu

1 nay — Rose

1 present not voting — Minjarez

WITNESSES: *At February 20 hearing:*

For — Jennifer Allmon, The Texas Catholic Conference of Bishops; Wayne Carson, Texas Alliance of Child and Family Services; Chris Corsbie, Texas Association Court Interpreters and Translators; Randy Daniels, Buckner International; Kathryn Freeman, Texas Baptist Christian Life Commission; Lynn Harms, Children's Home of Lubbock; Andrew Homer, Texas CASA; Brandon Logan, Texas Public Policy Foundation; Shannon Rosedale and Dana Springer, Catholic Charities Fort Worth; Tara Roussett, Texas Alliance of Child and Family Services; Frank Rynd, Archdiocese of Galveston-Houston; Sherri Statler, Christian Homes & Family Services; James Strickland, Neuro Synchrony Institute; Linda Wolfe and Janet Woody, Stand Out Ministries; Dee Hobbs; Tildon Humphrey; John Specia; Karen Thompson; (*Registered, but did not testify*: Steve Koebele, Miracle Farm; Scott Lundy, Katie Olse, Rachel Richter, Annette Rodriguez, Texas Alliance of Child and Family Services; Jake Posey, Methodist Children's Home-Waco; Clint Bedsole; Robert Howard; Stuart Reynolds)

Against — Harrison Hiner, Texas State Employees Union; Judy Powell and Johana Scot, Parent Guidance Center; Lee Spiller, Citizens Commission on Human Rights; (*Registered, but did not testify*: Brad O'Furey)

On — Katherine Barillas, One Voice Texas; Will Francis, National Association of Social Workers-Texas Chapter; Patricia Hogue, Texas Lawyers for Children; Kate Murphy, Texans Care for Children; Chuck

Smith, Equality Texas; Hank Whitman and Trevor Woodruff, Department of Family and Protective Services; Danielle Cordaway; Madeline Dreier; Scott McCown; Addison Nelson; (*Registered, but did not testify*: Lynn Blackmore, Kristene Blackstone, Audrey Carmical, Lisa Kanne, Lisa Subia, and Kaysie Taccetta, Department of Family and Protective Services)

At April 3 hearing:

For — Katherine Barillas, One Voice Texas; Nathan Buchanan, Ministerial Alliance Mineral Wells; Wayne Carson, ACH Child and Family Services; Kathy Friend, The Children's Shelter-San Antonio; Andrew Holland, Hope Fort Worth; Andrew Homer, Texas CASA; Jenifer Jarriel and Katie Olse, Texas Alliance of Child and Family Services; Peter Lindsay, Mattie Parker, Peter Philpott, Dub Stocker, ACH Child and Family Services; Dimple Patel, TexProtects; Kurt Senske, Upbring; Scott Lundy, Arrow Child and Family Ministries; Kate Murphy, Texans Care for Children; Chrystal Smith, Foster Village Austin; Tracy King; Mike Sloan; (*Registered, but did not testify*: Jennifer Allmon, The Texas Catholic Conference of Bishops; Gary Duke, Azleway, Inc.; Kathryn Freeman, Christian Life Commission; Katija Gruene, Green Party of Texas; Jeremy Newman, Texas Home School Coalition; Michael Redden, New Horizons; James Thurston, United Ways of Texas; Patricia Murphy; Thomas Parkinson; Cecilia Wood)

Against — Harrison Hiner, Texas State Employees Union; Patricia Hogue, Texas Lawyer for Children; Judy Powell and Johana Scot, Parent Guidance Center; Brooke Goodlett; Cecilia Hellrung; Alison Meyers; (*Registered, but did not testify*: Rene Lara, Texas AFL-CIO; Julie Ross, Dallas Down Syndrome Guild; Lee Spiller, Citizens Commission on Human Rights)

On — Brian Cronin, ICF; Will Francis, National Association of Social Workers-Texas Chapter; Robert Kepple, Texas District and County Attorneys Association; Brandon Logan, Texas Public Policy Foundation; Kim Murphy, Dallas County Public Defender's Office; Kaysie Taccetta and Trevor Woodruff, Department of Family and Protective Services;

Christopher Buck; Darlene Byrne; (*Registered, but did not testify:*
Kristene Blackstone and Lana Estevilla, Department of Family and
Protective Services)

BACKGROUND: The 82nd Legislature in 2011 enacted SB 218 by Nelson, which implemented foster care redesign at the Department and Family Protective Services (DFPS) by directing the agency to adopt stakeholder recommendations included in a DFPS report. The report included eight quality indicators for foster care redesign, such as ensuring children are safe and that they receive appropriate services, have a chance to participate in decisions affecting their lives, and have foster placements near their home communities.

SB 218 also directed DFPS to change how the state contracts and pays for child welfare services. The bill authorized DFPS to competitively procure for one or more DFPS regions a single source continuum contractor (SSCC), which helps place children in and coordinates all of the residential and treatment services for the contracted area.

Family Code, sec. 263.401 requires courts to dismiss after one year a conservatorship case affecting the parent-child relationship if the court has not issued a ruling. Sec. 266.012 requires a child to receive a comprehensive assessment, which includes a trauma screening and interviews with individuals who are aware of a child's needs, within 45 days after entering DFPS conservatorship. Sec. 261.001 defines abuse and neglect. Sec. 162.0062 entitles prospective adoptive parents of a foster child to examine records and other relevant background information of the child.

Sec. 264.124 requires DFPS to verify that a foster parent who is seeking monetary assistance from DFPS for day care has attempted to find appropriate day care services for the foster child through community services. Except in emergency placement situations, DFPS may not provide monetary assistance to a foster parent for day care until it has received the required verification from the foster parent.

DIGEST: CSHB 6 would transfer certain case management services from the Department of Family and Protective Services (DFPS) to a qualified single source continuum contractor (SSCC) that would provide community-based foster care within a contracted area.

Community-based foster care. The bill would change the name of foster care redesign to community-based foster care. A catchment area would be defined as a geographic area that provides child protective services under community-based foster care. While DFPS maintains temporary or permanent custody of a child, an SSCC would oversee the case management services of a child in a catchment area. Case management services would include:

- caseworker visits;
- family and caregiver visits;
- permanency planning meetings;
- development and revision of child and family plans of service, including a permanency plan and goals for a child;
- coordination and monitoring of services required by the child and the child's family;
- court-related duties, such as provision of required notifications or consultations; preparation of court reports; attendance of judicial and permanency hearings, trials, and mediations; compliance with applicable court orders; confirmation the child is progressing toward the permanency goal within state and federally mandated guidelines; and
- other services DFPS deems necessary for a single source continuum contractor to assume responsibility of case management.

Transfer of case management services to SSCC. DFPS would transfer family reunification support services and case management services to an SSCC that was operating in an initial catchment area before June 1, 2017. DFPS and the SSCC would create an initial case transfer planning team to address any necessary data transfer, establish file transfer procedures, and notify relevant persons regarding the transfer of services to the SSCC.

Foster care services contract compliance, oversight, and quality assurance division. The bill would require DFPS to create the foster care services contract compliance, oversight, and quality assurance division. The division would oversee contract compliance and achievement of performance-based outcomes by any vendor that provided community-based foster care and administer a dispute resolution process between SSCCs and subcontractors.

Investigations of child abuse, neglect, and exploitation. Investigations of alleged abuse, neglect, or exploitation occurring at a child-care facility would remain under the purview of DFPS. DFPS would be required to transfer the investigation duties of the Texas Child-Care Licensing (CCL) division to its Child Protective Services (CPS) division. This transfer would occur as soon as possible after the effective date of this section, which would be immediately if the bill was finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect August 28, 2017.

The bill would repeal the abuse, neglect, and exploitation definitions used by CCL at DFPS under Family Code, sec. 261.401. DFPS instead would adopt a definition of abuse, neglect, and exploitation under Family Code, sec. 261.001.

DFPS would have to create standardized policies to use during investigations. It would implement the standardized definitions and policies by December 1, 2017. The DFPS commissioner would be required to establish specialized units within CPS to investigate allegations of child abuse, neglect, and exploitation at child-care facilities and could require investigators to receive ongoing training on minimum licensing standards.

Qualifications. In order to qualify as an SSCC, an entity would have to be a nonprofit or governmental entity that was licensed as a service provider by DFPS, had an organizational mission focused on child welfare, and had the ability to provide all services and perform all duties as outlined in the

bill. DFPS would be required to develop a readiness review process to determine the ability of an SSCC to provide foster care services in a catchment area.

SSCC contract. The bill would require the following provisions be included in a contract with an SSCC:

- specify performance outcomes and financial incentives for exceeding any performance outcomes;
- establish conditions for the SSCC's access to relevant DFPS data and require the SSCC to participate in the data access and standards governance council;
- require the SSCC to create one process for the training and use of alternative caregivers for all child-placing agencies in the catchment area to facilitate reciprocity of licenses for alternative caregivers between agencies, including respite and overnight care providers, as defined by DFPS rule; and
- require the SSCC to maintain a diverse network of service providers that can accommodate children from different cultural backgrounds.

DFPS would review, approve, or disapprove a contractor's decision regarding a child's permanency goal. The bill would require DFPS to form an internal dispute resolution process to resolve disagreements between an SSCC and DFPS. An SSCC and any subcontractor would have to maintain minimum insurance coverage.

Early termination of contract. The bill would allow an SSCC to end its contract early by providing a written notice to the Health and Human Services Commission (HHSC) within 90 days before the termination. DFPS would have to create a contingency plan in every catchment area to ensure the continuation of foster care services if an SSCC decided to terminate its contract prematurely.

Expanding community-based foster care. By December 31, 2019, DFPS would have to:

- identify a maximum of eight catchment areas that were best suited to implement community-based foster care, two of which could be identified to transfer the case management services to an SSCC;
- create an implementation plan for those catchment areas, including a timeline for implementation;
- following the readiness review process and subject to the availability of funds, implement community-based foster care in those catchment areas; and
- following the implementation of community-based foster care services, evaluate the implementation process and SSCC performance in each catchment area.

The bill would allow DFPS to change the geographic boundaries of catchment areas to align with specific communities. DFPS would have to ensure the continuity of services for children and families during the transition of community-based foster care in a catchment area.

Pilot program. The bill would require DFPS to implement a pilot program in two CPS regions in which HHSC contracts with a single non-profit entity focused on child welfare or a governmental entity to provide family-based safety services and case management for children and families receiving those services.

By December 1, 2018, DFPS would have to submit a report to the applicable standing committees that included an evaluation of every contracted entity's progress in achieving certain performance goals. The report also would include a recommendation of whether to continue, expand, or terminate the pilot program.

Community engagement group. The bill would require DFPS to create a community engagement group in each catchment area to assist with the implementation of community-based foster care. DFPS would adopt rules governing community engagement groups and the maximum number of child welfare stakeholders that could be included in the group. The group would identify and report any issues stemming from the implementation

process and facilitate the use of local resources, including prevention and early intervention resources, to supplement community-based foster care services.

Data access and standards governance council. The bill would require DFPS to establish a data access and standards governance council to develop protocols for allowing SSCCs to access DFPS data to perform case management functions. Every SSCC that contracted with DFPS to provide community-based foster care would have to participate on the council. The council also could include court stakeholders, DFPS, health care providers, and other entities DFPS deemed necessary.

Initial medical examination and mental health screening. The bill would require children who are in DFPS custody for more than three business days to receive a medical examination and mental health screening by the end of the third business day, or by the end of the fifth business day if the child was located in a rural area, as defined by Insurance Code, sec. 845.002. The bill would require DFPS to submit a report by December 31, 2019, to the applicable standing committees regarding the department's compliance with administering medical examinations and mental health screenings.

The bill would require DFPS and an SSCC to notify within 24 hours the managed care organization under Medicaid's STAR Health program of any changes in a child's placement.

An SSCC would have to verify a child who received therapeutic foster care services was screened for trauma at least once every 90 days.

Health screening requirements. A managed care organization under the STAR Health program, a child-placing agency, and general residential operation would be required to ensure children in DFPS conservatorship received a complete early and periodic screening, diagnosis, and treatment checkup as specified in their respective contracts with HHSC. An entity's noncompliance with administering the required screening, diagnosis, and checkup to children in DFPS conservatorship would result in progressive

monetary penalties. The bill would prohibit HHSC from imposing financial penalties for an entity's noncompliance until September 1, 2018.

The bill would apply to a contract between a managed care organization and HHSC on or after September 1, 2017. A child-placing agency and general residential operation would have to comply with the required contract provisions by August 31, 2018.

Data. The bill would require DFPS to collect and monitor data on recurring reports of abuse or neglect by the same alleged perpetrator and involving the same child, including reports of abuse or neglect of the child made while the child resided in other households and reports of abuse or neglect of the child by different alleged perpetrators made while the child resided in the same household. When DFPS determined case priority or conducted service or safety planning for the child or child's family, the bill would require DFPS to consider any reports of abuse and neglect.

As soon as practicable after the bill's effective date, the bill would require DFPS to create an office of data analytics to monitor and report on the agency's staff performance.

Collaboration. In non-community-based foster care regions, DFPS management personnel and local stakeholders would have to create and submit to the DFPS commissioner an annual plan that addressed foster care capacity needs.

In regions where community-based foster care was not established, DFPS would be required to collaborate with a child-placing agency to develop and implement the single child plan of service model for each child in foster care in those regions by September 1, 2017.

HHSC and DFPS would have to develop performance quality metrics by September 1, 2018, for family-based safety services and post-adoption support services providers.

Records. DFPS would be required to ensure a child-placing agency,

SSCC, or other person placing a child for adoption receives a copy of a child's health, social, educational, and genetic history report. If a child was placed with a prospective adoptive parent prior to adoption, the bill would entitle the prospective adoptive parent access to the child's medical history record.

An entity placing a child for adoption would be required to notify the prospective adoptive parent of the prospective adoptive parent's right to examine the child's medical history record. The entity placing a child for adoption also would have to redact information from the medical history records to protect the biological parents and other persons whose identities were confidential. If DFPS was aware a child's birth mother consumed alcohol during pregnancy and the child had been diagnosed with fetal alcohol spectrum disorder, the bill would mandate DFPS include such information in the child's health history.

Daycare reimbursement for foster parents. The bill would require DFPS to provide monetary assistance to a foster parent for full-time or part-time daycare services for a foster child if DFPS received the required verification from a foster parent or the child needed an emergency placement. As long as the foster parent was employed full-time or part-time, the bill would prohibit DFPS from denying monetary assistance to the foster parent.

Attorney-client privilege. The bill would deem an employee, agent, or representative of an SSCC as a client's representative of DFPS for attorney-client communication privileges.

Suits. Under the bill, a court's jurisdiction over a case affecting the parent-child relationship would be terminated if the court did not issue a ruling within one year. The case would be automatically dismissed without a court order.

Legal representation. In any action that is filed against DFPS, at a minimum, a county attorney or district attorney would legally represent the department.

Effective date. Except as otherwise stated, the bill would take effect September 1, 2017.

**SUPPORTERS
SAY:**

CSHB 6 would increase foster care capacity, strengthen accountability and transparency, and galvanize collaboration among child welfare stakeholders to promote a foster child's best interests within local communities.

The bill would increase Texas' ability to provide community-based foster care services to foster children with diverse needs in multiple geographic regions. The Department of Family and Protective Services (DFPS) experiences high caseworker turnover rates and lacks efficiency and local decision-making to find placements for children in foster care. Transferring case management services to a single source continuum contractor (SSCC) and expanding community-based foster care to other regions would allow more children to be placed within their home communities and experience better outcomes.

The bill would strengthen accountability by requiring an SSCC to undergo an extensive readiness review process before the transfer of case management services or the expansion of community-based foster care occurred. During the readiness review process, an SSCC would have to disclose a plan explaining how the SSCC would avoid or eliminate conflicts of interest. The creation of a quality assurance division would increase transparency by requiring SSCCs to meet specific performance-based outcomes.

The bill would enhance collaboration among state and local child welfare stakeholders by establishing a community engagement group. The group would allow stakeholders to provide any necessary feedback to DFPS to make a region's transition to community-based foster care as smooth as possible.

**OPPONENTS
SAY:**

CSHB 6 would reduce Child Protective Services' (CPS) role in the foster care system by outsourcing case management services to a single source

continuum contractor (SSCC). Enabling an SSCC to provide case management services could lead to conflicts of interest by the SSCC, which could endanger the child's best interests.

The Legislature should give DFPS more time to use its monetary and staff resources to improve outcomes for foster children before transferring case management services to an SSCC.

NOTES:

According to the Legislative Budget Board, the bill would have a negative impact of about \$17.6 million in general revenue related funds during the fiscal 2018-19 biennium.