

BILL ANALYSIS

Senate Research Center

C.S.S.B. 218
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Jurisprudence
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

C.S.S.B. 218 builds on the legislature's past initiatives to increase protections of children who are victims of abuse, neglect, or exploitation. C.S.S.B. 218 redesigns the foster care system to help displaced children remain in their home communities where they have access to valuable support networks; authorizes the Health and Human Services Commission (HHSC) to use payment methodologies for foster care redesign based on performance targets; limits circumstances under which DFPS may allow children to be placed outside the home under a case closure agreement; authorizes DFPS to conduct a criminal background check on supervised independent living providers that contract with DFPS to provide case management services for youth who remain in foster care after age 18; and establishes investigation protocols when DFPS discovers, while conducting an investigation, that a child has a sexually transmitted disease.

C.S.S.B. 218 amends current law relating to procedures in certain suits affecting the parent-child relationship and the operation of the child protective services and foster care systems.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter D, Chapter 261, Family Code, by adding Section 261.3013, as follows:

Sec. 261.3013. CASE CLOSURE AGREEMENTS PROHIBITED. (a) Prohibits the Department of Family and Protective Services (DFPS), on closing a case, except as provided by Subsection (b), from entering into a written agreement with a child's parent or another adult with whom the child resides that requires the parent or other adult to take certain actions after the case is closed to ensure the child's safety.

(b) Provides that this section does not apply to an agreement that is entered into by a parent or other adult:

(1) following the removal of a child and that is subject to the approval of a court with continuing jurisdiction over the child;

(2) as a result of the person's participation in family group conferencing;
or

(3) as part of a formal case closure plan agreed to by the person who will continue to care for a child as a result of a parental child safety placement.

(c) Requires DFPS to develop policies to guide caseworkers in the development of case closure agreements authorized under Subsections (b)(2) and (3).

SECTION 2. Amends Subchapter A, Chapter 262, Family Code, by adding Section 262.010, as follows:

Sec. 262.010. CHILD WITH SEXUALLY TRANSMITTED DISEASE. (a) Requires DFPS, if, during an investigation by DFPS, DFPS discovers that a child younger than 11 years of age has a sexually transmitted disease, to:

(1) appoint a special investigator to assist in the investigation of the case; and

(2) file an original suit requesting an emergency order under this chapter for possession of the child unless DFPS determines, after taking the following actions, that removing the child from the child's home is not necessary for the protection of the child:

(A) reviewing the medical evidence to determine whether the medical evidence supports a finding that abuse likely occurred;

(B) interviewing the child and other persons residing in the child's home;

(C) conferring with law enforcement;

(D) determining whether any other child in the home has a sexually transmitted disease and, if so, referring the child for a sexual abuse examination;

(E) ensuring that each child alleged child to have been abused undergoes a forensic interview by a children's advocacy center established under Section 264.402 or another professional with specialized training in conducting forensic interviews if a children's advocacy center is not available in the county in which the child resides;

(F) consulting with a DFPS staff nurse or other medical expert to obtain additional information regarding the nature of the sexually transmitted disease and the ways the disease is transmitted and an opinion as to whether the abuse occurred based on facts of the case;

(G) contacting any additional witness who may have information relevant to the investigation, including other individuals who had access to the child; and

(H) if DFPS determines after taking the actions described by Paragraphs (A)-(G) that a finding of sexual abuse is not supported, obtaining an opinion from the Forensic Assessment Center Network as to whether the evidence in the case supports a finding that abuse likely occurred.

(b) Requires DFPS, if DFPS determines that abuse likely occurred, to work with law enforcement to obtain a search warrant to require an individual DFPS reasonably believes may have sexually abused the child to undergo medically appropriate diagnostic testing for sexually transmitted diseases.

SECTION 3. Amends Section 262.1015, Family Code, by adding Subsection (a-1), as follows:

(a-1) Authorizes DFPS, notwithstanding Subsection (a) (relating to DFPS being able to remove the alleged perpetrator from the home instead of removing the child), if DFPS determines that a protective order issued under Title 4 (Protective Orders and Family Violence) provides a reasonable alternative to obtaining an order under that subsection, to file an application for a protective order on behalf of the child instead of or in addition to

obtaining a temporary restraining order under this section, or assist a parent or other adult with whom a child resides in obtaining a protective order.

SECTION 4. Amends Section 264.118(a), Family Code, as follows:

(a) Requires DFPS to collect and report service and outcome information for certain current and former foster care youth for use in the National Youth in Transition Database as required by 42 U.S.C. Section 677(f) and 45 C.F.R. Section 1356.80 et seq. Deletes existing text requiring DFPS to conduct an annual survey of a sample of children from each region of the state who are at least 14 years of age and who receive substitute care services. Deletes existing text relating to the types of questions required on the annual survey.

SECTION 5. Amends Section 411.114(a)(3), Government Code, as follows:

(3) Provides that DFPS, rather than the Department of Protective and Regulatory Services, is entitled to obtain from DFPS criminal history record information maintained by DFPS that relates to certain persons, including an employee of or volunteer at, or an applicant for employment with or to be a volunteer at, an entity that provides supervised independent living services to a young adult receiving extended foster care services from DFPS; or a person 14 years of age or older who will be regularly or frequently working or staying in a host home that is providing supervised independent living services to a young adult receiving extended foster care services from DFPS. Makes nonsubstantive and conforming changes.

SECTION 6. Amends Section 40.036, Human Resources Code, as follows:

Sec. 40.036. **ENHANCED TRAINING OF CHILD PROTECTIVE SERVICES CASEWORKERS.** Requires DFPS, to improve the quality and consistency of training provided to child protective services caseworkers, to implement certain procedures, including requiring DFPS caseworkers to receive training relating to the benefits of using a protective order under Title 4 (Protective Orders and Family Violence), Family Code, to protect a child as an alternative to removing the child from the child's home. Makes a nonsubstantive change.

SECTION 7. Amends Subchapter I, Chapter 521, Transportation Code, by adding Section 521.1811, as follows:

Sec. 521.1811. **WAIVER OF FEES FOR FOSTER CARE YOUTH.** Provides that a person is exempt from the payment of any fee for the issuance of a driver's license, as provided under this chapter, if that person is younger than 18 years of age and in the managing conservatorship of DFPS, or at least 18 years of age, but younger than 21 years of age, and resides in a foster care placement, the cost of which is paid by DFPS.

SECTION 8. (a) Requires DFPS to implement a redesign of the foster care system, in accordance with the recommendations contained in DFPS' December 2010 Foster Care Redesign report submitted to the legislature.

(b) Requires the redesign of the foster care system to be implemented with the understanding that the individual needs of a child are paramount and that not all indicators are appropriate for every child and to include as goals for the redesign a system that ensures:

(1) children are safe in their placements;

(2) children are placed in their home communities;

(3) children are appropriately served in the least restrictive environment that supports minimal moves for the child;

- (4) connections to family and other persons important to the child are maintained;
- (5) children are placed with siblings;
- (6) services respect the child's culture;
- (7) children and youth are fully prepared for successful adulthood through being provided opportunities, experiences, and activities similar to those experienced by children and youth who are not in foster care; and
- (8) children and youth are provided opportunities to participate in decisions that impact their lives.

(c) Authorizes the Health and Human Services Commission to use payment rates for foster care under the redesigned system that are different from those used on the effective date of this Act for 24-hour residential child care. Authorizes payment rates for foster care under the redesigned system to include incentive payments for superior performance, as well as funding for additional services provided to families historically included in 24-hour residential child-care rates. Requires that final implementation of the foster care redesign include a payment system based on performance targets. Prohibits payment rates under foster redesign from resulting in total expenditures for any fiscal year during the 2012-2013 fiscal biennium that exceed the amounts appropriated by the 82nd Legislature for foster care and other purchased services, except to the extent that any increase in total expenditures is the direct result of caseload growth.

SECTION 9. Effective date: September 1, 2011.