

BILL ANALYSIS

Senate Research Center
85R29844 MK-D

C.S.H.B. 4
By: Burkett et al. (Schwertner)
Health & Human Services
5/10/2017
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Interested parties note that children who are placed with certain relative or other designated caregivers have more stability and permanency in their lives and have better outcomes than children placed in non-relative caregiver or non-designated caregiver foster care. H.B. 4 seeks to improve outcomes by addressing the level of support for relative or other designated caregivers

C.S.H.B. 4 amends current law relating to monetary assistance provided by the Department of Family and Protective Services to certain relative or designated caregivers, creates a criminal offense, and creates a civil penalty.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the commissioner of the Department of Family and Protective Services in SECTION 2 (Section 264.7551, Family Code) of this bill.

Rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission (executive commissioner) in SECTION 2 (Section 264.7551, Family Code) of this bill.

Rulemaking authority previously granted to the executive commissioner is modified in SECTION 1 (Section 264.755, Family Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 264.755, Family Code, by amending Subsections (a), (b), and (c) and adding Subsections (b-1), (b-2), and (f), as follows:

(a) Requires the Department of Family and Protective Services (DFPS) to, subject to the availability of funds, enter into a caregiver assistance agreement with each relative or other designated caregiver to provide monetary assistance and additional support services to the caregiver. Requires that the monetary assistance and support services to be based on a family's need, as determined by Subsection (b) and rules adopted by the executive commissioner of the Health and Human Services Commission (executive commissioner).

(b) Requires DFPS to provide monetary assistance under this section (Caregiver Assistance Agreement) to a caregiver who has a family income that is less than or equal to 300 percent of the federal poverty level, rather than requires that monetary assistance provided under this section include a one-time cash payment to the caregiver on the initial placement of a child or a sibling group. Prohibits monetary assistance provided to a caregiver from exceeding 50 percent of DFPS's daily basic foster care rate for the child. Provides that a caregiver who has a family income greater than 300 percent of the federal poverty level is not eligible for monetary assistance under this section. Deletes existing text prohibiting the amount of the cash payment, as determined by DFPS, from exceeding \$1,000 for each child. Deletes existing text requiring that the payment for placement of a sibling group be at least \$1,000 for the group, but prohibiting the payment from exceeding \$1,000 for each child in the group. Deletes existing text requiring that the cash payment be provided on the initial placement of each child with the caregiver and providing that it is provided to assist the caregiver in purchasing certain items.

(b-1) Requires DFPS to disburse monetary assistance provided to a caregiver under Subsection (b) in the same manner as DFPS disburses payments to a foster parent.

(b-2) Requires DFPS to implement a process to verify the family income of a relative or other designated caregiver for the purpose of determining eligibility to receive monetary assistance under Subsection (b).

(c) Deletes existing Subdivision (6) authorizing monetary assistance and additional support services provided under this section to include reimbursement of other expenses, as determined by rules adopted by the executive commissioner, not to exceed \$500 per year for each child.

(f) Authorizes a person, if the person meets certain eligibility requirements, to receive an annual reimbursement of other expenses for the child, as determined by rules adopted by the executive commissioner, not to exceed \$500 per year until the earlier of the third anniversary of the date the person was awarded permanent managing conservatorship of the child or the child's 18th birthday.

SECTION 2. Amends Subchapter I, Chapter 264, Family Code, by adding Section 264.7551, as follows:

Sec. 264.7551. FRAUDULENT AGREEMENT; CRIMINAL OFFENSE; CIVIL PENALTY. (a) Provides that a person commits an offense if, with intent to defraud or deceive DFPS, the person knowingly makes or causes to be made a false statement or misrepresentation of a material fact that allows a person to enter into a caregiver assistance agreement.

(b) Provides that an offense under Subsection (a) is a state jail felony unless it is shown on the trial of the offense that the person has previously been convicted under this section, in which case the offense is a felony of the third degree.

(c) Authorizes the actor, if conduct that constitutes an offense under this section also constitutes an offense under any other law, to be prosecuted under this section, the other law, or both.

(d) Requires the appropriate county prosecuting attorney to be responsible for the prosecution of an offense under this section.

(e) Provides that a person who engaged in conduct described by Subsection (a) is liable to the state for a civil penalty of \$1,000. Requires the Texas attorney general to bring an action to recover a civil penalty as authorized by this subsection.

(f) Authorizes the commissioner of DFPS to adopt rules necessary to determine whether fraudulent activity that violates Subsection (a) has occurred.

SECTION 3. (a) Provides that Section 264.755, Family Code, as amended by this Act, applies to a caregiver assistance agreement entered into before, on, or after the effective date of this Act, except as provided by Subsection (b).

(b) Requires DFPS, if a person who has a family income that is less than or equal to 300 percent of the federal poverty level entered into a caregiver assistance agreement with DFPS on or after June 1, 2017, but before the effective date of this Act, and received monetary assistance under the agreement from DFPS, to consider the money paid to the person to be a credit against the disbursement of caregiver assistance funds, and prohibits DFPS from beginning to disburse money to the person as authorized by Section 264.755, Family Code, as amended by this Act, until the credit has been offset.

SECTION 4. Provides that this Act takes effect only if a specific appropriation for the implementation of the Act is provided in a general appropriations act of the 85th Legislature. Provides that, if the legislature does not appropriate money specifically for the purpose of implementing this Act, this Act has no effect.

SECTION 5. Effective date, except as otherwise provided by this Act: September 1, 2017.