

## **BILL ANALYSIS**

Senate Research Center  
87R5320 MLH-D

S.B. 642  
By: West  
Health & Human Services  
4/1/2021  
As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

The relinquishment avoidance program is a joint endeavor between the Health and Human Services Commission (HHSC) and the Department of Family and Protective Services (DFPS). This program was designed as a funding mechanism to provide residential treatment to children/youth who were typically being discharged from a psychiatric hospital yet too dangerous to return home and required residential treatment services. Over the past seven years, it has enabled a number of children to access needed services; however, problems have been identified related to the development and implementation of the program. S.B. 642 requires HHSC and DFPS to jointly adopt guidance for providers and families that describes how to access services under the relinquishment avoidance program as well as develop protocols for families at risk of relinquishing a child for the sole purpose of accessing mental health services for the child.

Current policies and procedures for admitting children into the program are not designed in a way that allows children and families in crisis (the families that the program was originally intended for) to access the services. The wait time to access these services can be six to 12 weeks due to the required DFPS/Child Protective Services (CPS) abuse/neglect investigation and the multiple evaluations and assessments required for eligibility. Most families needing these services do not have six to 12 weeks to wait—they have days to find a placement. S.B. 642 requires HHSC and DFPS to jointly adopt protocols, including emergency eligibility procedures for children who are at immediate risk of relinquishment. The current process requires that all referrals to the program come through CPS. Families often hesitate to seek services because of fear of involvement with CPS. S.B. 642 allows for referrals through local mental health authorities. Access to the relinquishment avoidance program services currently requires that an abuse/neglect investigation of the parents be conducted by DFPS/CPS even when no allegation of abuse or neglect has been made. This creates unnecessary trauma for the family and unnecessary costs to the state. S.B. 642 clarifies that HHSC may not require DFPS to conduct a child abuse or neglect investigation before allowing the child to participate in the relinquishment avoidance program, unless there is an allegation of abuse or neglect of the child.

As proposed, S.B. 642 amends current law relating to the provision of mental health services for certain children at risk of relinquishment.

### **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 Section 262.351, Family Code, by amending Subdivision (1) and adding Subdivisions (1-a) and (1-b), as follows:

(1) Defines "commission."

(1-a) Defines "department."

(1-b) Defines "relinquishment avoidance program."

SECTION 2. Amends Subchapter E, Chapter 262, Family Code, by adding Section 262.353, as follows:

Sec. 262.353. PROCEDURE FOR RELINQUISHING CHILD TO OBTAIN SERVICES.

(a) Prohibits the Health and Human Services Commission (HHSC) from requiring the Department of Family and Protective Services (DFPS) to conduct a child abuse or neglect investigation before allowing a child to participate in the relinquishment avoidance program unless there is an allegation of abuse or neglect of the child.

(b) Authorizes a local mental health authority to refer a child directly to the relinquishment avoidance program without first contacting DFPS.

(c) Requires DFPS and HHSC to:

(1) jointly adopt comprehensive guidance for providers and families that describes how to access services under the relinquishment avoidance program and describes the child's and family's rights when the child's parent or legal guardian relinquishes the child in order to obtain mental health services for the child;

(2) publish the information described by Subdivision (1) on the agency's Internet website; and

(3) make the information described by Subdivision (1) available to caseworkers and families with a child who has a severe emotional disturbance.

(d) Requires DFPS and HHSC to jointly adopt clear and concise protocols for families at risk of relinquishing a child for the sole purpose of accessing mental health services for the child. Requires that the protocols:

(1) include procedures for determining eligibility for the relinquishment avoidance program, including emergency eligibility procedures for children who are at immediate risk of relinquishment;

(2) include procedures for applying for the relinquishment avoidance program;

(3) identify who will manage the case of a family eligible for the relinquishment avoidance program;

(4) identify the funding and resources for the relinquishment avoidance program; and

(5) identify the role of each party involved in the relinquishment avoidance program, including DFPS, HHSC, and local mental health authorities.

(e) Requires DFPS and local mental health authorities to follow the protocols adopted under Subsection (d).

SECTION 3. Effective date: September 1, 2021.