

**SUBJECT:** Requiring DFPS to establish family preservation services pilot program

**COMMITTEE:** Human Services — committee substitute recommended

**VOTE:** 9 ayes — Frank, Hinojosa, Hull, Klick, Meza, Neave, Noble, Rose, Shaheen

0 nays

**WITNESSES:** For — Judy Powell, Parent Guidance Center; Katie Olse, Texas Alliance of Child and Family Services; Andrew Brown, Texas Public Policy Foundation; (*Registered, but did not testify*: Sarah Crockett, Texas CASA; Meagan Corser, Texas Home School Coalition; Kerrie Judice, TexProtects; Linda Garcia, TFI; Jennifer Allmon, The Texas Catholic Conference of Bishops; Knox Kimberly, Upbring; Linda Litzinger)

Against — None

On — Aurora Martinez Jones, Travis County 126th Court; (*Registered, but did not testify*: Sasha Rasco and Angie Voss, Department of Family and Protective Services; Julie Wheeler, Travis County Commissioners Court)

**BACKGROUND:** The federal Family First Prevention Services Act allows states to receive funds through Title IV-E of the Social Security Act that previously were available to be spent only on services such as foster care placements, adoption assistance, and guardianship. States now may use the funds for time-limited prevention services for children at imminent risk of entering foster care, for parents or kin caregivers of such children, and for pregnant or parenting youth in foster care.

Family Code sec. 263.001 defines "substitute care" as the placement of a child who is in the conservatorship of the Department of Family and Protective Services in care outside the child's home. The term includes foster care, institutional care, adoption, placement with a relative of the child, or commitment to the Texas Juvenile Justice Department.

DIGEST:

CSHB 3041 would require the Department of Family and Protective Services (DFPS) to establish a pilot program for family preservation services in certain child protective services regions in the state. The bill would outline court proceedings for requiring an applicable family or a child to obtain family preservation services.

**Definitions.** The bill would define "child who is a candidate for foster care" as a child who was at imminent risk of being removed from the child's home and placed into the department's conservatorship because of a continuing danger to the child's physical health or safety caused by an act or failed action of a person entitled to possession of the child but for whom a court had issued an order allowing the child to remain safely in the child's home or in a kinship placement with the provision of family preservation services.

"Family preservation service" would mean a time-limited, family-focused service provided to the family of a child who was a candidate for foster care or a pregnant or parenting child to prevent or eliminate the need to remove the child and allow the child to remain safely with the child's family, including a service subject to the Family First Prevention Services Act.

"Foster care" would mean "substitute care" as defined by current law.

**Pilot program for family preservation services.** The bill would require DFPS to establish a pilot program that allowed the department to dispose of an investigation by referring the family of a child who was a candidate for foster care for family preservation services and allowing the child to return home instead of entering foster care or by providing services to a pregnant or parenting child. The department would have to implement the pilot program in two child protective services regions, one urban and one rural. At least one of those regions would have to be in a region in which community-based care was implemented.

In implementing the pilot program, DFPS would have to establish a

process to use Title IV-E funds to provide legal representation to families; and funds received under the Temporary Assistance for Needy Families (TANF) program to provide enhanced in-home support services to families qualifying for certain prevention services.

The bill would allow DFPS to contract with one or more persons to provide family preservation services under the pilot program. In a region with community-based care, the department could contract with a single source continuum contractor. The contract would have to include performance-based measures that required the person to show that as a result of the services provided in the pilot program region compared to other regions in the state:

- fewer children entered foster care;
- fewer children were removed from their families; and
- fewer children entered foster care in the five years following completion of the services.

The department would have to collaborate with a person selected to provide family preservation services to identify children who were candidates for foster care or who were pregnant or parenting children and to ensure that the services were appropriate for children referred by DFPS.

**Filing suit.** The bill would require DFPS to obtain a court order to compel the family of a child who was a foster care candidate or a pregnant or parenting child to obtain family preservation services and complete the family preservation services plan.

Under the bill, the department could file a suit requesting the court to render an order that required the parent, managing conservator, guardian, or other member of the child's household to participate in the family preservation services to:

- alleviate the effects of the abuse or neglect that occurred;
- reduce a continuing danger to the child's physical health or safety caused by an act or failure to act of the parent, managing

conservator, guardian, or other member of the child's household;  
or

- reduce a substantial risk of abuse or neglect caused by a relevant person's act or failure to act.

The court order requested by the department also could require the parent, managing conservator, guardian or other member of the child's household to complete all required actions and services under the family preservation services plan, among other specified provisions.

*Petition.* The petition for suit would have to be supported by:

- a sworn affidavit based on personal knowledge and stating facts sufficient to support that the child was a victim of or was at substantial risk of abuse or neglect and that there was a continuing danger to the child's physical health or safety caused by a certain person's act or failure to act; and
- a safety risk assessment documenting the process for the child to remain at home with appropriate family preservation services instead of foster care, among other specified provisions.

The court would be required to hold a hearing on the petition by the 14th day after the petition was filed unless the court found good cause for extending that date for up to 14 days.

*Attorney ad litem.* Under the bill, the court would have to appoint within specified time frames an attorney ad litem to represent the interests of the child and an attorney ad litem to represent the relevant parent.

**Court order.** At the conclusion of the hearing in a filed suit, the court would be required to order DFPS to provide family preservation services and to execute a family preservation services plan if the court found sufficient evidence to satisfy a person of ordinary prudence and caution that family preservation services were necessary to ensure the child's physical health or safety, among other provisions specified in the bill.

The court order would have to:

- identify and require specific services narrowly tailored to address the factors that made the child a foster care candidate or to address the needs of a pregnant or parenting child; and
- include a statement on whether the provided services were appropriate to address the factors that placed the child at risk of removal.

The court could, in its discretion, order family preservation services for a parent whose parental rights to another child were previously terminated.

In rendering an order, a court could omit any service prescribed under the family preservation services plan that the court found was not appropriate or was not narrowly tailored to address the factors that made the child a foster care candidate and place the child at risk of removal or address the needs of a pregnant or parenting child.

If a court order included services that were not subject to the Family First Prevention Services Act, the order would have to identify a method of financing for the services and the local jurisdiction that would pay for the services.

*Status hearing.* By the 90th date after the date the court rendered an order for family preservation services, the court would have to hold a hearing to review the status of each person required to participate in the services and of the child and to review services provided, purchased, or referred. The court would have to set subsequent review hearings every 90 days to review the continued need for the order.

*Extension.* The bill would allow the court to extend an order only once for up to 180 days if the department demonstrated a continuing need for the order, after notice and hearing. The bill would specify criteria in which a court could extend the order for an additional 180 days.

*Expiration.* On expiration of a court order for family preservation

services, the court would be required to dismiss the case.

**Family preservation services plan.** Subject to a court order, the department in consultation with the child's family would have to develop a family preservation services plan that:

- included a safety risk assessment of the child who was the subject of the investigation and an assessment of the child's family;
- stated the reasons for the department's involvement with the family;
- was narrowly tailored to address specific reasons for the department's involvement with the family and the factors that made the child a foster care candidate; and
- listed the specific family preservation services the family would receive under the plan, among other specified provisions.

The plan would have to include certain language informing a parent that their child could be removed from the home if the parent did not provide the child with a safe environment.

After the plan was signed by DFPS and the family of a foster care candidate or pregnant and parenting child and had been certified by the court, the plan would remain in effect until the 180th day after the date the court's order for family preservation services was signed, unless renewed by an order of the court; or the date the plan was amended or revoked by the court. The bill would allow a family preservation services plan to be amended at any time and would establish relevant amendment procedures.

*Service provider.* The bill would authorize a parent, managing conservator, guardian, or other member of a household to obtain court-ordered family preservation services from a qualified or licensed provider selected by the person. A parent, managing conservator, guardian, or other member of a household that obtained those services would be responsible for the service costs, and those who successfully completed the required family preservation services would have to obtain verification from the service provider of that completion.

**Report.** By the first anniversary of the date the department began a pilot program and every two years after that date, the department would have to contract with an independent entity to evaluate the program's implementation, assess its progress, and report its findings to the relevant legislative committees. The report would have to include:

- a detailed description of the department's actions to ensure the successful implementation of the program;
- a detailed analysis of certain entities' roles;
- data on certain performance-based outcomes achieved in the child protective services region in which the pilot was implemented; and
- recommendations on whether to expand family preservation services to other regions based on the pilot program's outcomes and performance, among other specified provisions.

Required performance-based outcomes for evaluating the pilot program would include the number of children and families served; the percentage of children who did not have a reported finding of abuse, neglect, or exploitation; the percentage of children served who did not enter foster care at case closure; and the percentage of children served who did not enter foster care within six months and one year of the date the case was closed, among other specified provisions.

**Other provisions.** The bill would make relevant conforming changes on status hearings under Family Code sec. 263.202(b) and service provider selections under Family Code ch. 264.

The bill would take effect September 1, 2021.

SUPPORTERS  
SAY:

CSHB 3041 would implement an important component of the Family First Prevention Services Act by requiring the provision of family preservation services through a pilot program in certain regions. The Department of Family and Protective Services is tasked with protecting children in Texas from abuse and neglect, which can lead to children being removed from homes that are deemed unsafe. However, children are increasingly being

removed from their homes due to alleged safety concerns or allegations of neglect that sometimes are simply the byproducts of poverty rather than acts of malicious parents or guardians.

Research indicates that children suffer additional trauma when they are removed from their homes and placed in foster care. The bill would allow children who are at imminent risk of entering foster care to remain safely at home while their parent or guardian works to complete evidence-based prevention services, including mental health services, substance abuse treatment, and in-home intensive parenting support.

The bill also would ensure that services rendered by the courts had sufficient oversight and were delivered in a way that respected the rights of parents and families. Implementing a pilot program in one urban and one rural region also would allow the state to address the needs of diverse populations.

**CRITICS  
SAY:**

CSHB 3041 may not provide enough resources for certain courts that manage heavier caseloads involving court-ordered family preservation services within and/or outside the Family First Prevention Services Act.

**NOTES:**

According to the Legislative Budget Board, the bill would have a negative impact of about \$4.1 million to general revenue related funds through fiscal 2023.