

SUBJECT: Interstate compact on adoption and medical assistance

COMMITTEE: Juvenile Justice and Family Issues — committee substitute recommended

VOTE: 7 ayes — Goodman, Brady, H. Cuellar, De La Garza, Naishtat, Puente, Van de Putte

0 nays

2 absent — Cook, Williamson

SENATE VOTE: On final passage, March 16 — voice vote

WITNESSES: For — None

Against — None

On — Howard Baldwin, Department of Protective and Regulatory Services

BACKGROUND: Adoption opportunities for children with special needs are limited and often require the state to look to adoptive parents out-of-state to find permanent placements.

Recognizing that the extraordinary costs and demands of raising special needs children pose barriers to would-be parents, Congress passed P.L. 96-272, the Adoption Assistance and Child Welfare Act of 1980, mandates that states protect the "interstate interests" of children receiving adoption assistance through Title IV-E Social Security funding. The Consolidated Budget Reconciliation Act mandated that the residence state provide Medicaid assistance to Title IV-E children, without providing a mechanism by which this would be achieved. Currently, the state that places the child is now generally responsible for adoption assistance, and Medicaid assistance is provided by the state where the child is physically located.

A family with a special needs child usually has immediate medical needs. It can often take a long time for the family to figure out the Medicaid system and an even longer time to begin to receive needed services. The Association of Administrators of the Interstate Compact on Adoption and

Medical Assistance (AAICAMA) was established in 1986 to provide the framework for formalized interstate cooperation envisioned under P.L. 96-272 and to ensure that standardized procedures are in place to ensure that adoptive families and their child receive the services which they are entitled to despite moving outside of the adoption assistance state. Currently, 29 states participate in the compact, including: Alabama, Arizona, Arkansas, Colorado, Delaware, Georgia, Hawaii, Idaho, Kansas, Kentucky, Louisiana, Maine, Massachusetts, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Mexico, Oklahoma, Rhode Island, South Carolina, South Dakota, Utah, Virginia, West Virginia and Wisconsin.

DIGEST: CSSB 169 would adopt the Interstate Compact on Adoption and Medical Assistance.

Interstate compact on adoption and medical assistance. CSSB 169 would provide that the purposes of the compact are to:

- authorize Department of Protective and Regulatory Services (PRS) with the concurrence of the Health and Human Services Commission (HHSC) to enter into interstate agreements with agencies of other states for the protection of children on behalf of whom adoption assistance is being provided by PRS; and
- provide procedures for interstate children's adoption assistance payments, including medical payments.

The executive director of DPRS would be authorized to develop, participate in the development of, negotiate, and enter into one or more interstate compacts on behalf of the state with other states to implement one or more of the purposes of the compact. The interstate compact would have the force and effect of law.

Required contents of compacts. A compact entered into under the authority conferred by the bill would have to provide that:

- other states could join the compact;

- a party could withdraw from the compact on written notice to the parties, with a period of one year between the date of notice and the effective date of withdrawal;
- protection under the compact would continue for the duration of the adoption assistance and apply to all children and their adoptive parents who on the effective date of the withdrawal were receiving adoption assistance from a party state other than the one in which they reside and have their principal place of abode;
- each case of adoption assistance to which the compact applied would be covered by a written assistance agreement between the adoptive parents and the state child welfare agency of the state that provided the adoption assistance. The agreement would be expressly for the benefit of the adopted child and enforceable by the adoptive parents and the state agency providing the assistance; and
- other provisions for the proper administration of the compact.

Optional contents of the compact. Provisions could be included establishing procedures and entitlement to medical, developmental, child-care, or other social services for the child in accordance with applicable laws, even if the child and the adoptive parents would be in a state other than the one responsible for or providing the services or the funds to defray part or all of the costs incurred; and other provisions that are appropriate or incidental to the proper administration of the compact.

Medical Assistance. CSSB 169 would provide that a child with special need who resides in Texas and who is the subject of an adoption assistance agreement with another state would be entitled to receive a medical assistance identification from this state for filing in the state medical assistance agency of a certified copy of the adoption assistance agreement obtained from the adoption assistance state. In accordance with the rules of the state medical assistance agency, the adoptive parents at least annually would be required to show that the agreement was still in effect or has been renewed.

The state medical assistance agency would be required to process and make payments on claims on account of the holder of the medical assistance identification in the same manner and under the same conditions and procedures as other recipients of medical assistance.

The agency would be required to provide coverage and benefits not provided by the resident state to a child in another state who was covered by an adoption assistance agreement made by DPRS. The adoptive parents could submit evidence of payment for services or benefit amounts not payable to the residence state and be reimbursed unless the benefits or services were covered under insurance or a third-party medical contract. The state medical assistance office would make regulations implementing the provisions of this subsection. The procedures and guidelines for additional coverage and benefits are set forth.

A person who submits a false claim for payment or reimbursement would be punished for perjury and a fine not to exceed \$10,000 or imprisonment for not more than two years.

The provisions of the bill would apply only to medical assistance for adopted children who reside in a state in which a different state provides medical assistance and are covered in a compact. Other children who are covered in adoption assistance agreements with this state and are entitled to medical assistance would be eligible to receive assistance in accordance with the laws and procedures applicable.

Federal participation. CSSB 169 would require HHSC to include the provision of adoption and medical assistance for which the federal government pays some or all of the cost in any state plan, and apply for and administer all relevant federal aid in accordance with applicable law.

Authority of DPRS. DPRS with the concurrence of HHSC could develop, participate in the development of, negotiate and enter into one or more interstate compacts on behalf of the state with other states to implement one or more of the purposes of the bill.

The executive director of DPRS would be required to serve as the compact administrator and would cooperate with all departments and agencies to

facilitate the proper administration of the compact and any supplemental agreements entered into by the state. The executive director and the commissioner of human services would be designated deputy compact administrators to represent adoption assistance services and medical assistance services under provisions of the Social Security Act, Title XIX.

The compact administrator could enter into supplementary agreements with other state officials pursuant to a compact. An agreement with another state that affects another department would have force and effect only if approved by the head of the department that would be affected.

The compact administrator could make or arrange for any payment necessary to discharge any financial obligations imposed upon the compact if approved by the comptroller.

Penalties. A person who knowingly obtained, attempted to obtain or aided and abetted a person to obtain any assistance on behalf of a child who was not entitled or assistance in an amount greater than the person or child is entitled to would commit a Class B misdemeanor, which would provide a maximum penalty of 180 days in jail and a \$2,000 fine.

Other provisions. CSSB 169 would make certain changes to Chapter 162, Subchapter B of the Family Code dealing with the Interstate Compact on the Placement of Children including:

- making clear that the governor's appointment as compact administrator for the Interstate Compact on the Placement of Children is the executive director of PRS. The executive director would be required to designate a deputy compact administrator and staff necessary to execute the terms of the compact in the state.
- providing that an individual, agency, corporation, or child-care facility that violates a provision of the compact would commit a Class B misdemeanor offense, punishable by a maximum penalty of 180 days in jail and a \$2,000 fine.
- providing that an individual, agency corporation, child-care facility or child-care institution that violates Article IV of the compact, penalty for

illegal placement, commits a Class B misdemeanor, punishable by a maximum penalty of 180 days in jail and a \$2000.00 fine. On conviction, the court would be required to revoke any license to operate as a child-care facility of child-care institution issued by the department to the entity convicted and would be required to revoke any license or certification of the individual, agency or corporation necessary to practice in the state.

- removes a provision subjecting the office of administrator of the Interstate Compact on the Placement of Children to be subject to the Texas Sunset Act.

The bill would take effect immediately if approved by two-thirds of the membership of each house.

**SUPPORTERS
SAY:**

Currently there is no guarantee that another state will cooperate in providing assistance to a special needs child from Texas who is adopted by a resident of another state. Participation in the interstate compact on adoption and medical assistance would provide a single point of contact in each state for adoptive families. It would give other states the assurance that Texas will follow a certain set of guidelines and make assistance available when children from other states are placed in Texas and, by the same token, give Texas the assurance that other states will provide assistance when Texas children are placed in those states. The compact should have an overall positive fiscal impact on Texas since the state places more children in other states than other states place in our state. In addition, only a small number of children who are placed for adoption receive adoption and medical assistance.

Participation in the compact would ensure that geographic boundaries do not become barriers to parents trying to meet the ordinary and special needs of their children. Texas' participation would prevent needless delays or denial of essential medical benefits by providing standard forms and procedures by which interstate eligibilities and transfers of Medicaid become a proper functioning reality. Texas would be better able to recruit and retain prospective adoptive parents and preserve adoptive families when the state can assure these families that the services and benefits in their adoption assistance agreements would be provided no matter where they live.

OPPONENTS No apparent opposition
SAY:

NOTES: The committee substitute made technical corrections reflecting changes made in the recodification of the Family Code by HB 655 by Goodman, enacted earlier this session.