

- SUBJECT:** Attendance of and consulting with children at DFPS hearings
- COMMITTEE:** Human Services — favorable, without amendment
- VOTE:** 8 ayes — Rose, S. King, J. Davis, Eissler, Herrero, Hughes, Naishtat, Parker
0 nays
1 absent — Pierson
- SENATE VOTE:** On final passage, March 28 — 30-0, on Local and Uncontested Calendar
- WITNESSES:** For — Conni Barker, DePelchin Children’s Center; (*Registered, but did not testify*: Lauren DeWitt, Citizens Commission on Human Rights; Tiffany Roper, Center for Public Policy Priorities; Jason Sabo, United Ways of Texas; Jodie Smith, Texans Care for Children; Lee Spiller, Citizens Commission on Human Rights; Jennifer Talley; Monica Thyssen, Advocacy, Inc.)
Against — None
On — Irene Clements, Texas Association of Child Placing Agencies, Texas Foster Family Association; Kristi Taylor, Legislative Committee, The Supreme Court Task Force on Foster Care
- BACKGROUND:** If an abused or neglected child comes under the care of the Department of Family and Protective Services (DFPS), courts hold various hearings to determine where a child should be permanently placed and follow-up hearings are also held to review placement decisions. DFPS regulates child placing agencies (CPAs), which plan for the placement of children in child care facilities, foster, and adoptive homes.

Texas receives federal grant funds for the Court Improvement Project, which is intended to enhance the ability of Texas courts to make decisions in the best interest of abused and neglected children. States can be penalized for failing to conform to federal standards for child welfare services. The federal Safe and Timely Interstate Placement of Foster

Children Act of 2006 requires that certain caregivers be properly informed of permanency and placement review hearings for children in foster care. The Child and Family Services Improvement Act of 2006 requires that courts consult with children in an age-appropriate manner regarding their placement.

DIGEST:

SB 759 would require that a child attend each permanency and placement review hearing unless the court specifically excused the child's attendance. At each of these hearings, the court would consult with a child four years of age or older in a developmentally appropriate manner regarding the child's permanency or transition.

The bill would entitle those parties notified of a child's placement review hearing to present evidence and be heard at the hearing.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2007.

**SUPPORTERS
SAY:**

SB 759 would make changes to the Texas Family Code conforming to the federal Safe and Timely Interstate Placement of Foster Children Act and the Child and Family Services Act of 2006. The changes made in this bill would enhance child welfare services for foster children in Texas. Conforming with federal requirements also would assist Texas in maintaining full grant eligibility for the Court Improvement Project.

In requiring that the court consult with children regarding permanency and transition plans, children of a reasonable age would be given an opportunity to express their opinions on their placement. By the age of four, a child can express basic information about the care the child has been given and any feelings about his or her placement. The bill would recognize that judges have to communicate on different levels with children of different ages by requiring that the court address the child in a developmentally appropriate way. The judge would take the child's comments into consideration, yet judges have been trained to filter the information provided by all the relevant caregivers and agencies involved in a child's case to determine the best interest of the child. If a court did not feel that consultation with the child would be beneficial, the court could choose not to do so.

A proposed floor amendment would address the concern that the licensed administrator of the child placing agency responsible for placing the child should be able to attend the placement review hearing.

OPPONENTS
SAY:

Four-year olds are too young to provide meaningful input on their placement decisions. Especially given that a child's parents could be present at hearings at which a child was consulted, children predominately would express that they should be returned to their parents. This natural bias should not influence a judge in determining what is in a child's best interest.

The proposed floor amendment that the licensed administrator of the child placing agency would be able to attend the placement review hearing would not improve the bill. A CPA has a conflict from having a business interest in where a foster child is placed. Under the current version of the bill, the judge would have the opportunity to invite the representative of an agency, including a CPA, to testify at a hearing if the court deemed such input necessary.

OTHER
OPPONENTS
SAY:

Although SB 759 would enhance the decision-making process regarding children under the state's care, the administrator of a child placing agency should be included among the interested parties who would receive notice and present evidence at placement review hearings. Certain case management services are provided at the CPA level, which affords the CPA administrator insight into what actions and placements are in the best interest of the child.

In addition, children attending placement review and permanency hearings typically miss half a day of school and are given unexcused absences for their time away. Children should not be penalized at school for mandatory attendance of hearings. SB 759 should include a provision that attendance of hearings would be considered an excused absence from school.

NOTES:

The author intends to accept a floor amendment that the licensed administrator of the child-placing agency responsible for placing the child for adoption be given notice of a placement review hearing and the opportunity to present evidence and be heard at the hearing.