

- SUBJECT:** Care and protection of foster children committed to or released from TYC
- COMMITTEE:** Human Services — committee substitute recommended
- VOTE:** 7 ayes — Rose, Herrero, Darby, Hernandez, Legler, Naishtat, Walle  
0 nays  
2 absent — Elkins, Hughes
- WITNESSES:** For — Richard Lavalla, Advocacy, Incorporated; Jodie Smith, Texans Care for Children; Lucia White, CASA of Travis County; (*Registered, but did not testify:* Dawn Choate, The ARC of Texas; Eileen Matthews-Garcia, Texans Care for Children; Isela Gutierrez, Texas Criminal Justice Coalition; Diana Martinez, TexProtects, The Texas Association for the Protection of Children; M. Madison Sloan, Texas Appleseed; Andrea Sparks, Texas CASA)  
  
Against — None  
  
On — Liz Kromrei, Department of Family and Protective Services, Child Protective Services
- BACKGROUND:** Foster children are children who, due to abuse or neglect, have been removed from their homes and for whom the Department of Family and Protective Services (DFPS) has been appointed managing conservator. Currently, there are about 85 foster children committed to the Texas Youth Commission (TYC) due to delinquent behavior. In 2007, about 200 of these youths were under the dual management of DFPS and TYC.
- DIGEST:** Under CSHB 1629, a court conducting a placement hearing for a foster child for whom DFPS had been appointed permanent managing conservator could not dismiss a suit affecting the parent-child relationship filed by DFPS while the child was committed to or released under the supervision of TYC unless the child was adopted or permanent managing conservatorship of the child was awarded to an individual other than DFPS.

DFPS would be required to provide TYC with relevant health and education information regarding a foster child, and a DFPS caseworker would be required to visit the child in person at least once a month while the foster child was committed to TYC.

TYC would be required to provide DFPS with relevant health and education information regarding a foster child and to permit communication, including in person, by telephone, or by mail, between a child and the child's attorney ad litem, guardian ad litem, court-appointed special advocate (CASA), or DFPS. In addition, the commission would be required to provide DFPS and any attorney ad litem or guardian ad litem for the child with timely notice of:

- a meeting to develop or revise the child's case plan;
- a medical appointment at which a person authorized to consent to medical care would have to participate as required by Family Code, ch. 266;
- an education meeting, including admission, review, or dismissal meetings for a child receiving special education;
- a grievance or disciplinary hearing for a child;
- a report of abuse or neglect of the child; and
- a significant medical condition of the child, as defined by ch. 266.

In addition, DFPS and TYC would be required to participate in transition planning for the child through release from detention, release under supervision, and discharge.

CSHB 1629 would amend the Human Resources Code to require that, within 10 days of a permanency or placement hearing, a TYC caseworker submit a written report to the court, DFPS, and any attorney ad litem, guardian ad litem or CASA appointed for the child, regarding the foster child's commitment to TYC. The report would have to include:

- the results of any assessments of the child during the child's commitment to TYC, including emotional, mental, educational, psychological, psychiatric, medical, or physical needs assessments;
- information regarding the child's placement in particular programs administered by TYC; and
- a description of the child's progress in TYC programs.

A juvenile court conducting a disposition hearing involving a foster child could communicate with the family court having continued jurisdiction over the child before the disposition hearing. The juvenile court also could allow DFPS to participate in the communication. CSHB 1629 would provide that if a court order did not continue the appointment of the child's guardian ad litem or attorney ad litem, then the court could appoint one.

The bill would add commitment to TYC to the list of placements outside a child's home that constitute "substitute care" and would require a court to hold a hearing to review a foster care child's commitment to TYC or release under supervision of TYC. In addition, the bill would provide that a foster child committed to TYC could attend a permanency or placement hearing in person, by telephone, or by videoconference.

CSHB 1629 would require that permanency and placement hearings involving a foster child committed to or released under the supervision of TYC and the reports required for the hearings would:

- evaluate whether the child's needs for treatment and education were being met;
- describe, using information provided by TYC, the child's progress in a rehabilitation program administered by TYC; and
- recommend other plans or services to meet the child's needs.

The bill would require that consent for medical, dental, psychological, and surgical treatment for a foster child who was committed to TYC be governed by the provisions relating to the medical care of a foster child in the Family Code. In addition, CSHB 1629 would amend the Human Resources Code to require TYC to disclose records and other information concerning a foster child to DFPS and to ensure DFPS the same rights as a parent under the commission's Parent's Bill of Rights.

The bill also would require TYC and the executive commissioner of the Health and Human Services Commission (HHSC), no later than April 30, 2010, to jointly adopt rules to ensure that a foster child receives appropriate services while under TYC supervision, including:

- medical care;
- mental health treatment and counseling;
- education, including special education;

- case management;
- drug and alcohol abuse assessment or treatment;
- sex offender treatment; and
- trauma informed care.

The bill would apply to foster children committed to or released under the supervision of TYC on or after the effective date.

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, 2009.

**SUPPORTERS  
SAY:**

CSHB 1629 would address the needs of some of the state's most vulnerable youth — those involved in both the foster care system and the juvenile justice system.

Current law provides protections for foster children, including regular hearings to review whether the child's placement and services are appropriate, court-appointed representatives such as attorneys ad litem, guardians ad litem, and CASAs, and an individual appointed by the court to provide medical consent for the youth. However, when a foster child is committed to TYC, these protections often end abruptly. The Family Code does not specifically address instances of dual management. Existing law provides no system of communication, coordination of services, or continuity of representation for foster children transferred between the two systems.

This can be tragic for these children, who are among the most vulnerable in the TYC system. When a child is removed from the home due to abuse or neglect, the child is placed in substitute care with the state acting in the role of parent until another permanency option, such as reunification, adoption, or emancipation, is possible. In most jurisdictions in the state, when a child is committed to TYC, the court dismisses the foster care case because existing law does not address the process to be followed when foster children are subject to the dual management of DFPS and TYC. Therefore, confusion exists among courts and caseworkers alike, and the result of this confusion is that foster children committed to TYC simply get lost in the system and lose the rights and protections previously provided to them by the foster care system.

CSHB 1629 would ensure that services and relationships established in the foster care system continued for the child after the child transferred to TYC. This would ensure that foster children received the services they needed wherever they were so that upon exiting the system they could become independent, functioning, and productive adults in our communities. In addition, the bill would require DFPS and TYC to communicate and to coordinate services. A lack of coordination in the past resulted in not only a lack of appropriate services to meet a child's needs, but also delays in the child being discharged from TYC.

The bill would highlight the problem that exists for foster children in the TYC system, bringing needed attention to ensure that review hearings took place, representation stayed in place, and services remained, even if the placement of the foster child changed. By allowing the protections of the foster care system to follow a foster child into the juvenile justice system, CSHB 1629 would ensure that the best interests of the child and of the state were served.

**OPPONENTS  
SAY:**

CSHB 1629 would not change anything because the protections of foster children who are committed to TYC already are in place. The same rules and procedures that apply to children in the foster care system still apply to them when they enter the TYC system. The reason these children get lost is because the overall foster care system is broken, which CSHB 1629 would not address.

**NOTES:**

The committee substitute differs from the bill as filed by adding that a court could not dismiss the foster care case unless the child was adopted or permanent managing conservatorship of the child was awarded to an individual other than DFPS. The substitute also would require TYC to provide information on the child's progress in any TYC rehabilitation program to be included in the placement review report and that DFPS include recommendations for other plans or services to meet the child's needs. It also changed the date for the HHSC executive commissioner and TYC to adopt rules from December 1, 2009, to April 30, 2010.