

- SUBJECT:** Permanency care assistance agreements for foster or adopted children
- COMMITTEE:** Human Services — committee substitute recommended
- VOTE:** 9 ayes — Rose, Herrero, Darby, Elkins, Hernandez, Hughes, Legler, Naishtat, Walle
0 nays
- SENATE VOTE:** On final passage, April 29 — 25–5 (Estes, Huffman, Nichols, Patrick, Shapiro)
- WITNESSES:** (*On House companion bill, HB 2860:*)
For — Conni Barker, DePelchin Children's Center; Nancy Ellis; Katy Kappel, Texas Silver-Haired Legislature; Madeline McClure, TexProtects; Jodie Smith, Texans Care For Children; Andrea Sparks, Texas CASA;
(*Registered, but did not testify:* Amanda Fredriksen, AARP; Christine Gendron, Texas Network of Youth Services; Susan Murphree, Advocacy, Incorporated; Charles Oerter, Texas Association of Child Placing Agencies; Laura Wolf, CASA of Travis County)

Against — None

On — Jane Burstain, Center for Public Policy Priorities; Anne Heiligenstein, Department of Family and Protective Services
- BACKGROUND:** The Department of Family and Protective Services (DFPS) provides various payments to foster parents and relative caregivers of foster children and provides adoption subsidies to certain adoptive parents. Such assistance is provided, with certain exceptions, until the child turns 18.

Individuals licensed to foster children in their homes receive between \$21 and \$86 per day for the care of a foster child, depending on an assessment of the level of services that a foster child will need. Kinship care providers, extended family members who care for children or sibling groups who have been removed from their homes, receive a one-time \$1,000 payment per sibling group, and those under 300 percent of the

federal poverty level may be reimbursed for approved expenses up to \$500 per year for three years.

Some adoptive parents receive adoption subsidies of \$400 to \$545 per month that help pay for an adoptive child's long-term care.

The federal Fostering Connections to Success and Increasing Adoptions Act of 2008 contains new requirements and, in some cases, the option to receive additional federal funding for state services and programs related to children who have been placed in the temporary or permanent managing conservatorship of the state.

DIGEST:

CSSB 1411 would establish a new type of monthly payment, called a permanency care assistance benefit, that would be provided to eligible kinship care providers of foster children. The bill also would specify educational and employment criteria that would allow adoption assistance, permanency care assistance, or foster care benefits to continue until the month during which a child turned 21 or 22, as applicable.

Permanency Care Assistance Agreements. DFPS would be required to enter into a permanency care assistance agreement with a kinship provider who was the prospective managing conservator of a foster child only if the provider met the requirements of federal law, state law, and DFPS rules to be eligible to receive permanency care assistance benefits. Kinship providers would include relatives or other adults with whom a foster child had a longstanding and significant relationship and with whom the child had resided for at least six consecutive months after the kinship provider had been licensed or verified to provide foster care.

Permanency care assistance benefits would include monthly payments to kinship providers and could include reimbursement of up to \$2,000 for nonrecurring expenses a kinship provider incurred to obtain permanent managing conservatorship of a foster child, including attorney's fees and court costs. By April 1, 2010, the executive commissioner of the Health and Human Services Commission (HHSC) would adopt rules to implement the permanency care assistance program, including eligibility requirements, setting a maximum monthly payment amount not to exceed the monthly payment DFPS would pay a caregiver if the child was being fostered, and ensuring the program conformed to requirements in the federal Fostering Connections to Success and Increasing Adoption Act of

2008. DFPS could not enter into a permanency care assistance agreement after August 31, 2017.

Foster care payments for certain caregivers. The bill would specify that if a designated or relative caregiver to a foster child became licensed by DFPS or verified by a licensed child-placing agency or DFPS, the caregiver could receive foster care payments in lieu of the benefits provided to unlicensed designated or relative caregivers.

Extending assistance. If DFPS first entered into an adoption assistance agreement with a child's adoptive parents or a permanency care assistance agreement with a foster child's kinship provider after the child's 16th birthday, DFPS would offer adoption assistance or permanency care assistance payments, as applicable, through the end of the month during which the child turned 21, if the child was:

- regularly attending high school or enrolled in a program leading toward a high school diploma or equivalency certificate;
- regularly attending an institution of higher education or a postsecondary vocational or technical program;
- participating in a program or activity that promoted or removed barriers to employment;
- working at least 80 hours per month; or
- incapable of doing any of these activities due to a documented medical condition.

DFPS would continue to pay the cost of foster care for a child for whom DFPS provided care until the last day of the month during which the child turned 22, if the child was regularly attending high school or enrolled in a program leading toward a high school diploma or equivalency certificate. Foster care benefits would be paid until the last day of the month during which the child turned 21, if the child regularly attended a higher education institution or postsecondary program, participated in a work-related program, worked at least 80 hours per week, or could not perform any of these activities due to a documented medical condition.

DFPS only would be required to provide these extended adoption assistance, permanency care assistance, or foster care benefits if DFPS received a specific appropriation for these purposes.

Miscellaneous provisions. A state agency would request any federal waiver or authorization determined necessary to implement any provisions of the bill.

The bill would take effect September 1, 2009. The provisions applicable to the extension of adoption assistance, permanency care assistance, or foster care benefits would take effect October 1, 2010.

**SUPPORTERS
SAY:**

CSSB 1411 would implement provisions of the federal Fostering Connections Act, which would benefit foster and adopted youth and their caregivers through assistance paid for by the federal government at a rate of 60 cents per dollar spent. The programs implemented could reduce long-term costs, encourage families to adopt older youth, and reduce the disparity between assistance provided to kinship and non-kinship foster care providers.

By continuing adoption and permanency care assistance for children for whom permanency agreements were established after the child's 16th birthday, the bill could increase the adoption of older children. Older children are among the most difficult children for whom to establish permanent placements. Eligibility for these benefits or extended foster care payments up to age 21 or 22 would require the child to meet educational or work criteria that would lead to better long-term outcomes for foster children. Children who age out of the foster care system without significant educational attainment or job training are more likely to be imprisoned or become homeless. These circumstances are harmful to the children and cause future costs to the state.

The permanency care assistance program could grant some relative caregivers who otherwise would have been unable to provide a permanent home for a child the ability to support a foster child or would allow kinship caregivers to provide higher quality care through increased resources. Kinship placements have higher permanency rates, a decreased risk of abuse or neglect, and a greater likelihood of the caregiver assuming full custody. Placements with a relative provide continuity for a child who already is facing emotional challenges in dealing with removal from home.

If this bill was not implemented, foster care costs could increase significantly, because the Fostering Connections Act requires states to identify all adult relatives of the child and provide them with information about the benefits they could receive if they were a licensed foster family

home. Costs to the state would increase as formerly unpaid relative caregivers obtained foster care licensure to receive more financial assistance. With the permanency care assistance program, the executive commissioner of HHSC would set the maximum amount of permanency care assistance payments in an amount not to exceed the amount the child would have received in a foster care home and likely less than this amount. Even if the permanency care benefits were less than foster care payments, many relatives still would elect this option because with legal permanency, they would not face monthly visits from DFPS caseworkers or be required to appear at semi-annual court dates. Decreasing foster care caseloads and court duties would decrease state costs for caseworker payroll as well.

The bill would include a Sunset provision that would end the program on August 31, 2017. This would allow the permanency care assistance program to operate for several years, so that evidence could be reviewed about the program outcomes and costs. The program could be continued if determined to be beneficial and cost-effective.

**OPPONENTS
SAY:**

While support for kinship placements is a positive goal, CSSB 1411 would risk reducing funding to the existing relative caregiver program or other vital DFPS child and family services in order to fund the permanency placement assistance program. Until further studies can be completed, it is impossible to tell if the permanency placement assistance program would be more costly than anticipated. The program could provide benefits that would encourage more relative caregivers to engage in the process than would have pursued licensed foster care status alone. If this occurred, the state would be paying permanency placement benefits to relatives who otherwise would have provided unpaid relative care, as opposed to saving money over what would have been paid to a licensed foster home.

Since the program would require the caregiver to first become a licensed foster home, it likely would attract those most capable of qualifying for licensure, which disproportionately would attract people with higher means and less need of assistance. The existing relative caregiver program already lacks adequate funding, so unless the state introduces new revenue streams, the state should not risk establishing a program that could compete for these and other critical funds.

In addition, the bill should prohibit the maximum permanency care assistance payment from being set higher than adoption subsidy payments.

This could encourage eligible caregivers to seek permanent managing conservatorship rather than adoption. Adoption would be preferable to the permanency care assistance program, because it would establish a more binding legal relationship between the caregiver and the child.

NOTES:

The House committee substitute differs from the Senate-passed bill in that it does not contain a provision that would require DFPS to include training in trauma-informed programs and services for foster or adoptive parents, kinship caregivers, and caseworkers.

The House companion bill, HB 2860 by Dukes, was reported favorably, as substituted, by the House Human Services Committee on April 16, but died in the Calendars Committee.

The fiscal note indicates SB 1411 would \$1.1 million in general revenue in fiscal 2010-11 but would have a positive general revenue funds impact of \$8.3 million by fiscal 2014. DFPS indicated greater initial costs, particularly for technology changes, but long-term savings would emerge from a decreased workload for caseworkers and permanency care assistance program savings that would exceed the program costs.

The House-passed version of SB 1, the general appropriations bill included \$15.2 million in Article 2 to fund fully DFPS's exceptional item request to implement provisions of the federal Fostering Connections Act, including an optional program for a subsidized relative caregiver program and extending foster care, adoption, and subsidized relative caregiver assistance beyond a child's 18th birthday.