

SUBJECT: Benefits and services for children in the conservatorship of the DFPS

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 9 — 31-0, on Local and Uncontested Calendar

WITNESSES: For — Conni Barker, DePelchin Children's Center; Jane Burstain, Center  
for Public Policy Priorities; Roger Moore, Adoption Coalition of Central  
Texas; Ruth Patsel, CASA of Tarrant County; (*Registered, but did not  
testify*: Nancy Ellis; Christine Gendron, Texas Network of Youth Services;  
Madeline McClure, TexProtects; Jodie Smith, Texans Care for Children;  
Andrea Sparks, Texas CASA)

Against — None

BACKGROUND: Education Code, sec. 54.211 provides tuition and fee exemptions at higher  
education institutions for students who were in foster care or other  
residential care under the conservatorship of the Department of Family  
and Protective Services (DFPS).

To be eligible, these students must enroll in a higher education institution  
as an undergraduate no later than three years after being discharged from  
foster care, graduating from high school, or achieving the diploma  
equivalent, whichever is earliest, or their 21st birthday.

Family Code, sec. 261.312 requires the establishment of a review team to  
evaluate DFPS casework and decision-making related to investigations of  
abuse and neglect. A review team is a citizen review panel established for  
each region of the state consisting of five members who serve staggered  
two-year terms. Review members consist of community representatives  
and private citizens who live in the region for which the team is  
established. Each member is required to be a parent with no convictions or  
indictments for an offense involving child abuse or neglect, and who has

not been determined or investigated by DFPS for having engaged in child abuse or neglect.

Family Code, ch. 263 governs the review of placement of children under the care of DFPS.

Family Code, ch. 263, subch. D provides the requirements for permanency hearings. The department is required to prepare a permanency plan for a child for whom the department has been appointed temporary managing conservator.

Family Code, ch. 263, subch. F governs placement review hearings, including requirements for placement review reports.

DIGEST:

CSSB 493 would amend Education Code, sec. 54.211 to exempt from college tuition and fees those who were in the conservatorship of DFPS on the day preceding:

- the date the student was adopted, if that date was on or after September 1, 2009; or
- the date permanent managing conservatorship of the student was awarded to a person other than the student's parent, if that date was on or after September 1, 2009.

The bill also would amend section 54.211 to make exemption eligibility applicable to those who enroll in an institution of higher education as an undergraduate not later than their 25th birthday.

CSSB 493 would amend Family Code, sec. 261.312 to require that the DFPS casework and decision-making review team would consist of at least five members, including volunteers who lived in and were broadly representative of the region in which the review team was established and had expertise in the prevention and treatment of child abuse and neglect. The bill would require that at least two members of the team be parents.

The bill would amend Family Code, ch. 263, subch. D to require that DFPS include in a child's permanency plan concurrent permanency goals, consisting of a primary permanency goal and at least one alternative

permanency goal. The bill would add a section specifying that the DFPS permanency plan could include as a goal:

- the reunification of the child with a parent or other individual from whom the child was removed;
- the termination of parental rights and adoption of the child by a relative or other suitable individual;
- the award of permanent managing conservatorship of the child to a relative or other suitable individual; or
- another planned, permanent living arrangement for the child.

If the department's goal in the permanency plan was to find another planned, permanent living arrangement for the child, CSSB 493 would require DFPS to document a compelling reason why the other permanency goals were not in the child's best interest.

The bill would amend Family Code, subch. F to require that when DFPS had been named as a child's managing conservator in a final order that terminated a parent's parental rights, the court would have to conduct a placement review hearing within 90 days of the final order, followed by additional placement review hearings at least once every six months until the date the child was adopted or became an adult.

In a placement review report for a child for whom the department had been named managing conservator in a final order that did not include terminating the parental rights, the bill would require DFPS to describe the efforts it had made to find a permanent placement for the child, including efforts to:

- work with the caregiver with whom the child was placed to determine whether the caregiver was willing to become a permanent placement for the child;
- locate a relative or other suitable individual to serve as permanent managing conservator of the child; and
- evaluate any change in a parent's circumstances to determine whether the child could be returned to the parent or parental rights should be terminated.

If the DFPS goal in the permanency plan was to find another planned, permanent living arrangement for the child, then the placement review report would have to document a compelling reason why adoption, permanent managing conservatorship with a relative or other suitable individual, or returning the child to a parent were not in the best interest of the child.

The court would be required to determine in the placement review hearing of a child for whom the department had been named managing conservator in a final order that did not include termination of parental rights, whether a permanent placement, including appointing a relative as permanent managing conservator or returning the child to a parent, was appropriate for the child.

For a child whose permanency goal was another planned, permanent living arrangement, the court would determine whether DFPS had:

- documented a compelling reason why adoption, permanent managing conservatorship with a relative or other suitable individual, or returning the child to a parent was not in the child's best interest; and
- identified a family or other caring adult who had made a permanent commitment to the child.

In addition, the bill would provide that the court could order DFPS to provide services to a parent for up to six months after the date of the placement review hearing for a child for whom the department had been named managing conservator in a final order that did not include termination of parental rights, if:

- the child had not been placed with a relative or other individual, including a foster parent, who was seeking permanent managing conservatorship of the child; and
- the court determined that further efforts at reunification with a parent were in the best interest of the child, and likely to result in the child's safe return to the parent.

Changes in law made by the bill would apply only to a child in the conservatorship of DFPS for whom a final order in a suit affecting the parent-child relationship was rendered on or after the effective date of the bill. Provisions of the bill relating to the exemption of tuition and fees at public institutions of higher education would apply beginning with the 2009 fall semester.

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:

CSSB 643 would provide greater oversight of DFPS and make the agency more accountable with regard to finding permanent placement for foster children, so that fewer children would remain under the permanent managing conservatorship (PMC) of the state. In January 2009, 4,223 children were under the permanent managing conservatorship of DFPS without having had parental rights terminated. Without serious effort to find these children permanent placement, they simply grow up in foster care, moving from home to home until they "age out" of the system upon turning 18. Children who age out of foster care have much higher incidences of homelessness, poverty, teen pregnancy, and entry into the criminal justice system.

DFPS caseloads are high and caseworkers naturally put great effort into cases that have a possibility of reunification of the family, followed by cases in which parental rights have been terminated, meaning there is a chance for adoption. But cases involving children in which reunification is not possible and parental rights have not been terminated are more difficult, and therefore tend to receive the lowest priority. The bill would help ensure that long-term care foster children did not "get lost" in the system by requiring DFPS to document and provide compelling reasons why a child had not been reunited with parents or placed with a relative, or why the parental rights had not been terminated so that the child could be placed for adoption.

For children whose parental rights had been terminated, the bill would increase the chances of adoption by requiring a placement review hearing to take place within 90 days of the final order terminating parental rights, rather than within six months. This would ensure that the adoption process or permanent placement options were begun in a timely manner.

In addition, the bill would address the opportunities for these children to obtain a college education by extending the eligibility for exemption of tuition and fees from 21 years of age to 25 and by adding foster youth who were adopted or placed in the permanent managing conservatorship of a person other than their parents before aging out to the list of those eligible for tuition exemption. Today, if an individual ages out of foster care and enters college before age 21, he or she is eligible for the exemption. However, many foster youth must work full-time upon aging out and do not start college until after age 21. Many foster youth also have education deficits that must be overcome before they can begin college.

CSSB 643 would improve outcomes for children in foster care by ensuring that children find permanency through returning home, adoption, or living with a relative, and that they have the opportunity to pursue a better life by obtaining a college education.

OPPONENTS  
SAY:

Although the bill would support a worthy cause, it only would add to the tuition exemptions already allowed by the state. This eventually would require these institutions to absorb this cost when funding higher education.

OTHER  
OPPONENTS  
SAY:

This bill should not limit the eligibility of the tuition and fees exemption to those who were adopted or who were placed in the permanent managing conservatorship of a person other than the student's parents on or after September 1, 2009. Foster youth who were adopted on August 31, 2009 have no fewer hardships than those adopted on or after September 1. The opportunity of a college education provided by bill should be retroactive and apply to all foster children.

NOTES:

According to the LBB, there would be no significant fiscal impact to the state. Based on information from the Higher Education Coordinating Board, it is estimated the new exemption provisions would result in institutions forgoing tuition and fees of \$9,807 in fiscal 2010, and \$42,054 in fiscal 2011, with the amount increasing in the future as more students used the exemption.