

SUBJECT: Requiring DFPS to investigate certain providers for abuse, neglect reports

COMMITTEE: Human Services — favorable, without amendment

VOTE: 9 ayes — Raymond, Rose, Keough, S. King, Klick, Naishtat, Peña, Price, Spitzer

0 nays

SENATE VOTE: On final passage, April 28 — 31-0

WITNESSES: (*On House companion bill, HB 2656*)

For — (*Registered, but did not testify*: Amanda Fredriksen, AARP; Katharine Ligon, Center for Public Policy Priorities; Lee Spiller, Citizens Commission on Human Rights; Dennis Borel, Coalition of Texans with Disabilities; Kathryn Lewis, Disability Rights Texas; Greg Hansch, National Alliance on Mental Illness (NAMI) Texas; Carole Smith, Private Providers Association of Texas; Lee Johnson, Texas Council of Community Centers; Douglas Smith, Texas Criminal Justice Coalition; Marilyn Hartman)

Against — None

On — (*Registered, but did not testify*: Calvin Green, Department of Aging and Disability Services; Beth Engelking and Karl Urban, Department of Family and Protective Services; Gary Jessee, Health and Human Services Commission; Marina Hench, Texas Association for Home Care and Hospice)

BACKGROUND: The Department of Family and Protective Services (DFPS) provides protective services for the state's children and for adults who are elderly or have a disability. The department investigates reports of abuse, neglect, and exploitation of these groups by health care providers and other individuals.

Some have suggested that the evolution of health care service delivery

models has led to inconsistencies and ambiguities in statutes governing DFPS investigations of abuse and neglect, including ambiguity about the agency's authority to investigate allegations related to services provided through managed care organizations.

DIGEST: SB 1880 would require the Department of Family and Protective Services (DFPS) to investigate reports of abuse, neglect, and exploitation for several groups of individuals not currently investigated by the department.

The bill would require individuals to report to the department suspected abuse, neglect, or exploitation of any person receiving services from a provider as defined in the bill. A provider would include:

- a facility,
- a community center, a local mental health authority, or a local intellectual and developmental disability authority;
- a person who contracted with a health and human services agency or managed care organization to provide home and community-based services;
- a person who contracted with a Medicaid managed care organization to provide behavioral health services;
- a managed care organization;
- an officer, employee, agent, contractor, or subcontractor of a person or entity listed above; and
- an employee, fiscal agent, case manager, or service coordinator of an individual employer participating in the consumer-directed service option.

The bill also would require that suspected abuse, neglect, or exploitation of an elderly person or a person with a disability who was not receiving services from one of these providers be reported to DFPS.

Home and community-based services. SB 1880 would specify that DFPS would receive and investigate allegations of abuse, neglect, or exploitation regarding a provider of home and community-based services, regardless of whether those services were provided by a state-licensed

nursing home or assisted living facility.

SB 1880 also would authorize DFPS to receive and investigate reports of abuse, neglect, and exploitation of a person who lived in a residence owned or operated by a provider of home and community-based services under the home and community-based waiver program, regardless of whether the person was receiving services under the waiver program from the provider. DFPS would assess the need for emergency protective services upon receipt of such a report. The bill would provide requirements about the cooperation of a provider with the investigation.

SB 1880 would require providers operating under the home and community-based waiver program to post inside any of their residences a sign stating the provider's name and contact information and information about the provider's contract with an applicable health and human services agency.

The bill also would require DFPS to investigate reports of abuse, neglect, or exploitation by a home and community-based services provider working in a convalescent home, nursing home, or assisted living facility with certain exceptions as provided in the bill.

Investigations concerning a child. SB 1880 would require DFPS to investigate reports of abuse, neglect, or exploitation of a child receiving services from a provider as defined by the bill, or as otherwise defined in rule. The department would be required to investigate such reports of a child receiving services from an officer, employee, agent, contractor, or subcontractor of a state-licensed home and community support services agency if one of those individuals was or could be the subject of the allegation.

The bill also would authorize DFPS to provide certain protective services to a child for the investigation of a provider under the home and community-based services waiver program, even if the child was not receiving services under the waiver program.

Other provisions. SB 1880 would prohibit DFPS from investigating reports of alleged abuse, neglect, or exploitation committed by a provider if the provider was operated, licensed, certified, or registered by a state agency that had authority to investigate such reports but would require that DFPS forward such reports to the appropriate state agency for investigation.

The bill also would specify that the suspected abuse, neglect, or exploitation of a person in facility by someone other than a provider as defined in the bill should be reported to the state agency that operated, licensed, certified, or registered that facility.

Repealed sections. SB 1880 would repeal a section of the Family Code on investigations concerning certain children with mental illness or an intellectual disability. It also would repeal Human Resources Code, ch. 48, subch. H, which governs investigations in certain facilities, community centers, and local mental health and intellectual and developmental disability authorities.

SB 1880 would make other conforming changes necessary to implement the provisions of the bill.

Rulemaking. SB 1880 would require the executive commissioner of the Health and Human Services Commission to adopt rules governing the investigations described in the bill, including rules to:

- prioritize investigations;
- provide for an appeals process for an alleged victim of abuse, neglect, or exploitation; and
- prescribe how other agencies and managed care organizations would share information necessary to determine who was receiving services from providers.

The bill would also require the executive commissioner of the Health and Human Services Commission to establish procedures for forwarding certain investigation reports to appropriate providers and health and

human services agencies, as well as procedures to resolve disagreements between DFPS and other health and human services agencies.

The bill would take effect on September 1, 2015.

NOTES:

The Legislative Budget Board estimates the bill would have a two-year negative impact to general revenue of about \$3.3 million through fiscal 2016-17.