

SUBJECT: Considering the least restrictive environment for foster care placements

COMMITTEE: Human Services — committee substitute recommended

VOTE: 7 ayes — Raymond, Frank, Keough, Klick, Minjarez, Rose, Swanson

0 nays

2 absent — Miller, Wu

WITNESSES: For — Lynn Harms, Childrens Home of Lubbock; Don Forrester, Texas Baptist Children's Home; Michelle Maikoetter, Texas Coalition of Homes for Children; Eron Green, Texas Coalition of Homes for Children, South Texas Children's Home Ministries; Tim Brown, Texas Coalition of Homes for Children, Methodist Children's Home; Patrick Foster; (*Registered, but did not testify*: Mashelle Ancell, Elaine Fortune, and Kerry Fortune, Ben Richey Boys Ranch and Family Program; Todd Roberson, Children At Heart Ministries; Diane Brown and Kathy Steinocher, Children's Village and Family Service Agency Inc.; Douglas Young, Foster's Home for Children; Faith Priour and Jonah Priour, Hill Country Youth Ranch; Krystle Ramsay, Hill Country Youth Ranch, Texas Coalition of Children's Homes; Moe Dozier, Methodist Children's Home; Jay Hamilton, Miracle Farm; David Thompson, Presbyterian Children's Homes and Services; Randy Spencer, Presbyterian Children's Homes and Services, Karyn Purvis Institute of Child Development, Texas Coalition of Homes for Children; Mark Childs, South Texas Children's Home; Greg Huskey, STCH ministries; Jennifer Allmon, the Texas Catholic Conference of Bishops; Kent Birdsong; Roxana Ghaderi)

Against — Lee Spiller, Citizens Commission on Human Rights; Will Francis, National Association of Social Workers - Texas Chapter; Katherine Barillas, One Voice Texas; Judy Powell and Johana Scot, Parent Guidance Center; Kate Murphy, Texans Care for Children; Andrew Homer, Texas CASA; Kristen Bell, Texas Lawyers for Children; Dimple Patel, TexProtects; Tymothy Belseth

On — Elizabeth Kromrei, Department of Family and Protective Services; Susan Murphree, Disability Rights Texas; Christine Gendron, Texas Network of Youth Services; Jean Shaw, Department of Family and Protective Services; Jan Brown; Mike Foster; Stephanie Hall; (*Registered, but did not testify*: Audrey Carmical, Department of Family and Protective Services)

**BACKGROUND:** 40 TAC, part 19, ch. 748, subch. B, §748.43 defines "cottage home" as a living arrangement for children who are not receiving treatment services in which:

- each group of children has separate living quarters;
- 12 or fewer children are in each group;
- primary caregivers live in the children's living quarters 24 hours per day for at least four days a week or 15 days a month; and
- other caregivers are used only to meet the child-to-caregiver ratio or to supplement care.

**DIGEST:** CSHB 1542 would require the Department of Family and Protective Services (DFPS) to consider whether the placement of a child removed from his or her home would be in the child's best interest. DFPS would have to consider whether the placement:

- was the least restrictive setting;
- was the closest in geographic proximity to the child's home;
- was the most able to meet the child's identified needs; and
- satisfied any expressed interests of the child, when developmentally appropriate.

The bill would specify that placing a child in a foster home or general residential operation (GRO) operating as a cottage home would be considered the least restrictive setting if the child could not be placed with a relative or designated caregiver. The term "least restrictive setting" would mean a placement that was the most family-like setting.

The bill would take effect September 1, 2017.

SUPPORTERS  
SAY:

CSHB 1542 would help children caught in the foster care system with nowhere to go by qualifying a cottage home as the least restrictive setting for a child who could not be placed with a relative or designated caregiver. The state does not have the capacity to take care of the growing foster child population in traditional foster homes and needs more options like cottage homes.

Concerns that this bill would incorrectly define least restrictive settings for foster children are unfounded because federal law leaves the definition to the discretion of the Legislature.

Cottage homes are not the same as "congregate care" and have a unique family-like setting. While some cottage homes may produce poor outcomes for children, this is no different than other foster homes.

The bill would not create any expenses for the state because its language is permissive and would not require placing children in cottage homes. Relatively few foster care kids in Texas are located at general residential operations, which do not make up a significant cost. Furthermore, several faith-based homes choose not to take money from the state.

An expanded use of cottage homes could help open up beds in other homes and facilities, which ultimately would help the highest risk children find placement.

OPPONENTS  
SAY:

CSHB 1542 incorrectly would define the least restrictive environment for a child as a cottage home, which is congregate care and not a family-like environment. Federal law already has specifically defined least restrictive settings, and cottage homes should not be equated with foster homes.

Group care through these homes can lead to poor outcomes for kids, especially younger children, because of the constant cycle of parents in and out of the home.

Cottage homes also can be more expensive than traditional foster care.

There also would be an increased reimbursement cost to the state for this group care.

The bill would not affect children with the greatest needs who were spending nights in Child Protective Services offices because cottage homes accept only easy-to-place kids.

**NOTES:**

The Legislative Budget Board's fiscal note indicates that while the bill could be implemented through existing resources, it could result in loss of federal funding. Current federal law (Social Security Act, Title IV-E, sec. 675(5)(A)) defines the "least restrictive environment" for foster child placement, and if the Department of Family and Protective Services was found to be out of compliance, the state could lose up to \$1.3 billion in Title IV-E and Temporary Assistance for Needy Families (TANF) funds.

A companion bill, SB 907 by Birdwell, was approved by the Senate on April 24.