

SUBJECT: Prohibiting child removals based solely on certain medical determinations

COMMITTEE: Juvenile Justice and Family Issues — favorable, without amendment

VOTE: 8 ayes — Neave, Swanson, Cook, Frank, Leach, Ramos, Vasut, Wu

0 nays

1 absent — Talarico

SENATE VOTE: On final passage, April 19 — 31-0, on Local and Uncontested Calendar

WITNESSES: No public hearing.

DIGEST: SB 1578 would amend Family Code provisions that govern court determinations in certain child abuse and neglect cases. The bill also would require the Department of Family and Protective Services (DFPS) to evaluate the Forensic Assessment Center Network and report its finding and recommendations to the Legislature.

Court determinations. The bill would authorize the court, when making a determination on whether a child was or had been a victim of abuse or neglect at the close of a hearing on a protective order application for a child, to consider the opinion of a medical professional obtained by an individual against whom the protective order was sought.

The bill would prohibit a court from making a determination that there was an immediate danger to a child's physical health or safety or that the child had been a victim of neglect or sexual abuse based solely on the opinion of a medical professional under contract with DFPS who had not conducted a physical examination of the child. An authorized representative of DFPS, a law enforcement officer, or a juvenile probation officer could not take possession of a child based solely on the opinion of such a medical professional.

In determining whether there was an immediate danger to the physical

health or safety of a child, the court could consider the opinion of a medical professional obtained by the child's parent, managing conservator, possessory conservator, guardian, caretaker, or custodian.

Network evaluation, report. The bill would require DFPS, with the assistance of the Supreme Court of Texas Children's Commission, to evaluate the department's use of the Forensic Assessment Center Network. The department and commission also would have to develop joint recommendations to improve:

- the evaluation of agreements between the department and the network; and
- the best practices for using assessments provided by the network in connection with abuse and neglect investigations conducted by the department.

By September 1, 2022, DFPS would be required to prepare and submit to the Legislature a written report that contained the department's findings and recommendations and any recommendations for legislative or other action. This provision would expire September 1, 2023.

The bill would take effect September 1, 2021, and would apply only to a suit affecting the parent-child relationship filed on or after the effective date.

**SUPPORTERS
SAY:**

SB 1578 would protect the rights of parents and guard against unnecessary removals of children from their homes by requiring an evaluation of the Forensic Assessment Center Network and by amending provisions governing court determinations in certain child abuse and neglect cases.

The Forensic Assessment Center Network (FACN) is a network of physicians who provide the Department of Family and Protective Services (DFPS) with medical determinations and consultation in cases of suspected child abuse and neglect. While the network's mission to protect children is noble, important, and likely has saved the lives of Texas

children, in recent years there have been a number of high-profile cases involving unnecessary removals based on FACN testimony, including some by pediatricians who haven't physically examined or seen the child. A mistaken child abuse diagnosis can devastate a family if child welfare workers are too deferential to FACN doctors and fail to thoroughly investigate the reason for a child's injury or illness before ordering removal from the home. By requiring DFPS, in consultation with the Texas Children's Commission, to evaluate how caseworkers use the network and to provide recommendations to improve interactions with the FACN, SB 1578 would help ensure that the network serves its purposes but did not lead to children being removed from their homes unnecessarily.

The bill also would address concerns about the unnecessary removal of children from their homes by prohibiting the removal of a child for an allegation of abuse or neglect based solely on the opinion of a medical professional under contract with DFPS who had not conducted a physical examination of the child. In addition, SB 1578 would authorize courts making certain determinations to consider a second medical opinion provided by a physician chosen by the child's parent or guardian. In this way, the bill would help prevent unnecessary removals and the accompanying trauma to children and families.

**CRITICS
SAY:**

SB 1578's prohibition on removing a child based solely on the opinion of a network physician under contract with DFPS who had not conducted a physical examination of the child could cause the court to overlook warning signs identified by FACN doctors and could risk a child being left in a potentially dangerous home.