

BILL ANALYSIS

Senate Research Center
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H.B. 1854
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Health & Human Services
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

A parental child safety placement (PCSP) is used when a child cannot stay in the biological home due to a risk of abuse or neglect. In lieu of a formal removal, the Texas Department of Family and Protective Services (DFPS) allows the parent to choose, with DFPS approval, a relative willing to take the child temporarily. Currently, there are no statutes or administrative code provisions governing PCSPs. The process is governed solely by DFPS internal policy.

H.B. 1854 establishes minimum guidelines for PCSPs in the Family Code covering required documentation, establishment of a visitation plan, providing for necessities such as health care and education, and a specific termination date for the PCSP.

H.B. 1854 requires DFPS, in most cases, to develop a plan with both parties for the safe return of the child to the parent or another person legally entitled to possession of the child. In exceptional cases, DFPS may close a case while the child is still living with the caregiver if the caregiver is willing to continue to provide care, and DFPS has either unsuccessfully attempted a removal of the child into foster care, or determined that a removal into foster care is not necessary for the protection of the child.

H.B. 1854 amends current law relating to certain arrangements to provide care for a child during an investigation of abuse or neglect.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 264, Family Code, by adding Subchapter L, as follows:

SUBCHAPTER L. PARENTAL CHILD SAFETY PLACEMENTS

Sec. 264.901. DEFINITIONS. Defines, in this subchapter, "caregiver," "parental child safety placement," and "parental child safety placement agreement."

Sec. 264.902. PARENTAL CHILD SAFETY PLACEMENT AGREEMENT. (a) Requires that a parental child safety placement agreement include terms that clearly state:

- (1) the respective duties of the person making the placement and the caregiver, including a plan for how the caregiver will access necessary medical treatment for the child and the caregiver's duty to ensure that a school-aged child is enrolled in and attending school;
- (2) conditions under which the person placing the child may have access to the child, including how often the person may visit and the circumstances under which the person's visit may occur;

- (3) the duties of the Department of Family and Protective Services (DFPS);
- (4) the date on which the agreement will terminate unless terminated sooner or extended to a subsequent date as provided under DFPS policy; and
- (5) any other term DFPS determines necessary for the safety and welfare of the child.

(b) Requires that a parental child safety placement agreement contain the following statement in boldface type and capital letters: "YOUR AGREEMENT TO THE PARENTAL CHILD SAFETY PLACEMENT IS NOT AN ADMISSION OF CHILD ABUSE OR NEGLECT ON YOUR PART AND CANNOT BE USED AGAINST YOU AS AN ADMISSION OF CHILD ABUSE OR NEGLECT."

(c) Requires that a parental child safety placement agreement be in writing and signed by the person making the placement and the caregiver.

(d) Requires DFPS to provide a written copy of the parental child safety placement agreement to the person making the placement and the caregiver.

Sec. 264.903. CAREGIVER EVALUATION. (a) Requires DFPS to develop policies and procedures for evaluating a potential caregiver's qualifications to care for a child under this subchapter, including policies and procedures for evaluating the criminal history of a caregiver, allegations of abuse or neglect against a caregiver, and a caregiver's home environment and ability to care for the child.

(b) Requires a DFPS caseworker who performs an evaluation of a caregiver under this section to document the results of the evaluation in DFPS' case records.

(c) Requires DFPS, if, after performing an evaluation of a potential caregiver, DFPS determines that it is not in the child's best interests to be placed with the caregiver, to notify the person who proposed the caregiver and the proposed caregiver of the reasons for DFPS' decision, but prohibits DFPS from disclosing the specifics of any criminal history or allegations of abuse or neglect unless the caregiver agrees to the disclosure.

Sec. 264.904. DEPARTMENT PROCEDURES FOR CLOSING CASE. (a) Requires DFPS, before closing a case in which DFPS has approved a parental child safety placement, to develop a plan with the person who made the placement and the caregiver for the safe return of the child to the person who placed the child with the caregiver or to another person legally entitled to possession of the child, as appropriate.

(b) Authorizes DFPS to close a case with a child still living with the caregiver in a parental child safety placement if DFPS has determined that the child could safely return to the parent or person who made the parental child safety placement, but the parent or other person agrees in writing for the child to continue to reside with the caregiver.

(c) Requires DFPS, if DFPS determines that the child is unable to safely return to the parent or person who made the parental child safety placement, to determine whether the child can remain safely in the home of the caregiver or whether DFPS is required to seek legal conservatorship of the child in order to ensure the child's safety.

(d) Requires DFPS, before DFPS is authorized to close a case with a child still living in a parental child safety placement, to:

- (1) determine and document in the case file that the child can safely remain in the placement without DFPS' supervision;
 - (2) obtain the written agreement of the parent or person who made the parental child safety placement, if possible;
 - (3) obtain the caregiver's agreement in writing that the child can continue living in the placement after DFPS closes the case; and
 - (4) develop a written plan for the child's care after DFPS closes the case.
- (e) Provides that DFPS is not required to comply with Subsection (d) if DFPS has filed suit seeking to be named conservator of the child under Chapter 262 (Procedures in Suit by Governmental Entity to Protect Health and Safety of Child) and been denied conservatorship of the child.

Sec. 264.905. REMOVAL OF CHILD BY DEPARTMENT. Provides that this subchapter does not prevent DFPS from removing a child at any time from a person who makes a parental child safety placement or from a caregiver if removal is determined to be necessary by DFPS for the safety and welfare of the child as provided by Chapter 262.

Sec. 264.906. PLACEMENT PREFERENCE DURING CONSERVATORSHIP. Requires DFPS, if, while a parental child safety placement agreement is in effect, DFPS files suit under Chapter 262 seeking to be named managing conservator of the child, to give priority to placing the child with the parental child safety placement caregiver as long as the placement is safe and available.

SECTION 2. Effective date: September 1, 2011.