

BILL ANALYSIS

Senate Research Center
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S.B. 218
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Health & Human Services
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 218 builds on the legislature's past initiatives to increase protections of children who are victims of abuse, neglect, or exploitation. S.B. 218 redesigns the foster care system to help displaced children remain in their home communities where they have access to valuable support networks; authorizes the Health and Human Services Commission (HHSC) to use payment methodologies for foster care redesign based on performance targets and directs the Department of Family and Protective Services (DFPS) to pay providers based on their performance instead of on the child's level of need; directs DFPS, when contracting with providers, to give preference to providers who can provide individualized continuums of care; limits circumstances under which DFPS may allow children to be placed outside the home under a case closure agreement; authorizes DFPS to conduct a criminal background check on supervised independent living providers that contract with DFPS to provide case management services for youth who remain in foster care after age 18; and establishes investigation protocols when DFPS discovers, while conducting an investigation, that a child has a sexually transmitted disease.

As proposed, S.B. 218 amends current law relating to procedures in certain suits affecting the parent-child relationship and the operation of the child protective services and foster care systems.

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 Section 153.0071(e-1), Family Code, as follows:

(e-1) Authorizes a court, notwithstanding Subsections (d) (relating to the requirements of a mediated settlement being binding on the parties) and (e) (relating to the parties being entitled to judgment on the settlement agreement), to decline to enter a judgment on a mediated settlement agreement if the court finds that a party to the agreement was a victim of family violence, and that circumstance impaired the party's ability to make decisions or, rather than and, the agreement is not in the child's best interest.

SECTION 2. Amends Subchapter D, Chapter 261, Family Code, by adding Section 261.3013, as follows:

Sec. 261.3013. CASE CLOSURE AGREEMENTS PROHIBITED. (a) Prohibits the Department of Family and Protective Services (DFPS), on closing a case, except as provided by Subsection (b), from entering into a written agreement with a child's parent or another adult with whom the child resides that requires the parent or other adult to take certain actions after the case is closed to ensure the child's safety.

(b) Provides that this section does not apply to an agreement that is entered into following the removal of a child, and subject to the approval of a court with continuing jurisdiction over the child.

SECTION 3. Amends Subchapter A, Chapter 262, Family Code, by adding Section 262.010, as follows:

Sec. 262.010. **POSITIVE TEST FOR SEXUALLY TRANSMITTED DISEASE.** (a) Requires DFPS, if, during an investigation by DFPS, a child younger than 11 years of age tests positive for a sexually transmitted disease, to file an original suit requesting an emergency order under this chapter for possession of the child unless DFPS determines, based on the medical evidence, that a finding of sexual abuse of the child is not supported; or after interviewing the child, that the perpetrator of the abuse was not a parent of the child or another adult living in the same home as the child.

(b) Requires the court, in a suit filed under Subsection (a), to order the parents of the child, each adult living in the same home as the child, and any caregiver who is an alleged perpetrator of sexual abuse of the child to undergo medically appropriate diagnostic testing for sexually transmitted diseases. Requires the court, if a parent or an adult living in the same home as the child refuses to submit to the court-ordered testing, to render an appropriate order naming the DFPS as managing conservator of the child and making any other order the court determines necessary to protect the child.

SECTION 4. Amends Section 262.1015, Family Code, by adding Subsection (a-1), as follows:

(a-1) Authorizes DFPS, notwithstanding Subsection (a) (relating to DFPS being able to remove the alleged perpetrator from the home instead of removing the child), if DFPS determines that a protective order issued under Title 4 (Protective Orders and Family Violence) provides a reasonable alternative to obtaining an order under that subsection, to file an application for a protective order on behalf of the child instead of or in addition to obtaining a temporary restraining order under this section, or assist a parent or other adult with whom a child resides in obtaining a protective order.

SECTION 5. Amends Subchapter B, Chapter 264, Family Code, by adding Section 264.1062, as follows:

Sec. 264.1062. **PUBLISHING PERFORMANCE DATA FOR PERSONS WHO PROVIDE SUBSTITUTE CARE SERVICES.** Requires DFPS to publish on DFPS's Internet website performance data for each person providing substitute care services under a contract with DFPS.

SECTION 6. Amends Section 264.118(a), Family Code, as follows:

(a) Requires DFPS to collect and report service and outcome information for certain current and former foster care youth for use in the National Youth in Transition Database as required by 42 U.S.C. Section 677(f) and 45 C.F.R. Section 1356.80 et seq. Deletes existing text requiring DFPS to conduct an annual survey of a sample of children from each region of the state who are at least 14 years of age and who receive substitute care services. Deletes existing text relating to the types of questions required on the annual survey.

SECTION 7. Amends Section 40.036, Human Resources Code, as follows:

Sec. 40.036. **ENHANCED TRAINING OF CHILD PROTECTIVE SERVICES CASEWORKERS.** Requires DFPS, to improve the quality and consistency of training provided to child protective services caseworkers, to implement certain procedures, including requiring DFPS caseworkers to receive training relating to the benefits of using a protective order under Title 4 (Protective Orders and Family Violence), Family Code, to protect a child as an alternative to removing the child from the child's home. Makes a nonsubstantive change.

SECTION 8. Amends Subchapter I, Chapter 521, Transportation Code, by adding Section 521.1811, as follows:

Sec. 521.1811. WAIVER OF FEES FOR FOSTER CARE YOUTH. Provides that a person is exempt from the payment of any fee for the issuance of a driver's license, as provided under this chapter, if that person is younger than 18 years of age and in the managing conservatorship of DFPS, or at least 18 years of age, but younger than 21 years of age, and resides in a foster care placement, the cost of which is paid by DFPS.

SECTION 9. (a) Requires DFPS to implement a redesign of the foster care system, in accordance with the recommendations contained in DFPS' December 2010 Foster Care Redesign report submitted to the legislature.

(b) Provides that the goal of the foster care system redesign is to improve outcomes for children and families by ensuring that:

(1) a child is placed in the child's home community so that the child is able to maintain personal connections and educational continuity;

(2) a child is placed in the least restrictive setting that meets the child's needs;

(3) a child is served by a provider who will ensure the full continuum of care in a designated geographic area, supporting minimal placement moves and decreased placement disruptions;

(4) a child is placed with the child's siblings whenever safe and appropriate;

(5) a child's culture will be respected;

(6) a child is provided opportunities, experiences, and activities similar to those experienced by children who are not in foster care; and

(7) a child is provided opportunities to participate in decisions that impact the child's life.

(c) Authorizes the Health and Human Services Commission to use payment rates for foster care under the redesigned system that are different from those used on the effective date of this Act for 24-hour residential child care. Provides that payment rates for foster care under the redesigned system be based on performance targets and may include incentive payments for superior performance, as well as funding for additional services provided to families not historically included in 24-hour residential child-care rates. Prohibits payment rates under foster redesign from resulting in total expenditures for any fiscal year that exceed the amounts appropriated for fiscal year 2012 by the 82nd Legislature for foster care and other purchased services, except to the extent that any increase in total expenditures is the direct result of caseload growth.

(d) Authorizes DFPS to phase in the implementation of the foster care redesign over a reasonable time, during which DFPS may continue to reimburse some foster care providers under the 24-hour residential child-care rates in effect on the effective date of this Act, while using alternative payment rates for other foster care providers during the phase-in period for implementation of the foster care redesign.

(e) Requires DFPS, not later than December 1, 2012, to submit a status report on the implementation of this section to the Senate Finance Committee, the Senate Committee on Health and Human Services, the House Committee on Appropriations, the House Human Services Committee, the Legislative Budget Board, and the governor. Requires that the report include DFPS' findings and any recommendations for improvements to the system.

SECTION 10. Effective date: September 1, 2011.