

## **BILL ANALYSIS**

Senate Research Center  
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C.S.S.B. 44  
By: Zaffirini; West  
Health & Human Services  
4/17/2013  
Committee Report (Substituted)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

The purpose of C.S.S.B. 44 is to exempt parents from Texas's abuse and neglect registry whose sole purpose for relinquishment of their parental rights is to obtain mental health services for their child. Additionally, if a parent's name was previously and/or wrongfully added to the "refused to accept parental responsibility" list, parents will also have the right to petition the family court that held the custody hearing to have their name removed from the registry if the only reason the Department of Family and Protective Services (DFPS) took custody was to obtain mental health services for the child.

Parents of children with severe behavioral or mental disorders face a high financial burden in securing the necessary medical care for their child. Although Medicaid waiver programs cover mental and behavioral health services for children with disabilities, some private insurers only cover mental health services if the child is determined to be homicidal or suicidal or they may limit coverage of care. In these cases, parents without adequate health insurance or financial means may face the last resort decision to place their child in the custody of Child Protective Services (CPS) in order to obtain the mental health services or treatment the child needs. In doing so, parents are deemed as having refused to accept parental responsibility and are placed on Texas's abuse and neglect registry.

DFPS can use the information in this registry to perform background checks and is required to provide this information with local child services agencies, hospitals, clinics, schools, and other states. This means that persons entered into the registry may be barred from employment in any of these sectors, especially those jobs requiring contact with children.

Parents who have given up custody of their children to CPS for the sole reason of gaining better behavioral or mental health services for their children do not pose a present or future threat to the safety of children and should not be entered into the abuse and neglect registry. Entry into the registry not only unnecessarily labels these parents as threats to their children's safety, but also bars them from seeking employment in hospitals, clinics, schools, and any sector requiring contact with children. This higher barrier to employment exacerbates the financial condition that forced the parent to give up custody of their child.

Placing a child in the conservatorship of the state where a parent may have to relinquish custody is not only traumatic for the child and family, but costly for the state in terms of on-going child welfare case supervision and court procedures. Mental health authorities have the expertise needed to assess children with serious emotional disturbances and identify the supports and services they need, while CPS caseworkers typically do not have this expertise.

C.S.S.B. 44 amends current law relating to maintaining and reporting certain information regarding certain child abuse or neglect cases and the provision of mental health services for children in those cases.

### **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 261.004(b), Family Code, to require the Department of Family and Protective Services (DFPS) to report certain information, including reporting the number of children who suffer from a mental illness, as defined by Section 571.003 (Definitions), Health and Safety Code, for whom DFPS is appointed managing conservator due to a person voluntarily relinquishing possession of a child solely to obtain mental health services for the child.

SECTION 2. Amends Chapter 262, Family Code, by adding Subchapter E, as follows:

### **SUBCHAPTER E. RELINQUISHING CHILD TO OBTAIN CERTAIN SERVICES**

Sec. 262.351. **JOINT MANAGING CONSERVATORSHIP OF CHILD.** Requires DFPS, before a person relinquishes possession of a child who suffers from a serious mental illness in order to obtain mental health services for the child, to notify the person relinquishing possession of the child of the option of seeking a court order for joint managing conservatorship of the child with DFPS if that arrangement is in the best interest of the child.

Sec. 262.352. **STUDY TO DEVELOP ALTERNATIVES TO RELINQUISHMENT OF PARENTAL RIGHTS TO OBTAIN MENTAL HEALTH SERVICES.** (a) Requires DFPS and the Department of State Health Services (DSHS) to jointly study, develop, and implement changes necessary to prevent the practice of parents relinquishing parental rights of children with serious mental illness and placement in the conservatorship of DFPS solely to obtain mental health services for the child.

(b) Requires DFPS and DSHS, as part of the study under Subsection (a), to consider the advantages of providing mental health services using temporary residential treatment and intensive community-based services options, including:

- (1) joint managing conservatorship of the child by DFPS and the child's parent;
- (2) the Youth Empowerment Services waiver program;
- (3) systems of care services;
- (4) emergency respite services; and
- (5) diversion residential treatment center services.

(c) Requires DFPS and DSHS, not later than September 30, 2014, to file a report with the legislature and the Council on Children and Families (council) on the results of the study required by Subsection (b). Requires that the report include:

- (1) any statutory changes needed to prevent the relinquishment of parental rights;
- (2) each option to prevent relinquishment of parental rights that was considered during the study;
- (3) each option that was selected for implementation;
- (4) the implementation status of each option; and
- (5) the number of children and families that are affected by the implementation of each option.

(d) Requires DFPS and DSHS, not later than September 30 of each even-numbered year after the date the report is filed under Subsection (c), to update the report.

SECTION 3. Amends Section 531.803, Government Code, by amending Subsection (a) and adding Subsection (a-1), as follows:

(a) Requires the council to, among other requirements, make recommendations to the executive commissioner of the Health and Human Services Commission (executive commissioner) to eliminate the practice of including in the central registry of reported cases of child abuse or neglect the name of a person who relinquishes possession of the person's child to the state solely for the purpose of obtaining mental health services for the child. Makes nonsubstantive changes.

(a-1) Requires the executive commissioner to review the council's recommendations under Subsection (a)(7) (relating to requiring the council to make recommendation to the executive commissioner to eliminate the practice of including in the central registry the name of a person who relinquishes possession of a child to the state solely to obtain mental health services for the child) and implement any changes necessary to ensure that the central registry of reported cases of child abuse or neglect does not include the name of a person who relinquishes possession of the person's child to the state solely for the purpose of obtaining mental health services for the child.

SECTION 4. Effective date: September 1, 2013.