

BILL ANALYSIS

Senate Research Center
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H.B. 418
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Health & Human Services
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, emergency possession of a child is authorized without a court order in certain limited situations, including situations involving an immediate danger to the physical health and safety of a child, the sexual abuse of a child, or a danger to a child because the child's parent is under the influence of illegal drugs. Concerned parties assert that this authority does not include a situation involving a child who is a victim of human trafficking. Noting that child victims of human trafficking or sex trafficking are frequently conditioned by their handlers to run away from police officers or child protective services workers, if given the opportunity, concerned parties assert that there is a need for police officers and child protective services workers to have the authority to act quickly in a situation involving a child who is a victim of human trafficking in order to provide the child with a safe refuge and specialized services. H.B. 418 seeks to better protect the health and safety of child victims of human trafficking.

H.B. 418 amends the Human Resources Code to authorize the commissioners court of a county or governing body of a municipality to contract with a child-placing agency to verify a secure agency foster home or secure agency foster group home to provide a safe and therapeutic environment tailored to the needs of children who are victims of trafficking. The bill prohibits a child-placing agency from verifying a secure agency foster home or secure agency foster group home to provide services unless the child-placing agency holds an appropriate child-care services license that authorizes the agency to provide services to victims of trafficking in accordance with Department of Family and Protective Services (DFPS) standards for child-placing agencies.

H.B. 418 requires a verified secure agency foster home or secure agency foster group home to provide the following services: mental health and other services specifically designed to assist children who are victims of trafficking or of a continuous trafficking offense, including victim and family counseling, behavioral health care, treatment and intervention for sexual assault, education tailored to the child's needs, life skills training, mentoring, and substance abuse screening and treatment as needed; individualized services based on the trauma endured by a child, as determined through comprehensive assessments of the service needs of the child; 24-hour services; and appropriate security through facility design, hardware, technology, and staffing.

H.B. 418 amends the Family Code to authorize a court in an emergency, initial, or full adversary hearing conducted in a child protection suit to order that the child who is the subject of the hearing be placed in a verified secure agency foster home or secure agency foster group home if the court finds that the placement is in the best interest of the child and that the child's physical health or safety is in danger because the child has been recruited, harbored, transported, provided, or obtained for forced labor or commercial sexual activity, including any child subjected to an act that constitutes a trafficking or continuous trafficking offense. The bill expands the conditions under which an authorized representative of DFPS, a law enforcement officer, or a juvenile probation officer may take possession of a child without a court order to include personal knowledge of facts, or information furnished by another that has been corroborated by personal knowledge of facts, that would lead a person of ordinary prudence and caution to believe that the child has been the victim of trafficking or of a continuous trafficking offense.

H.B. 418 excepts a court from the requirement to order the return of the child at the initial hearing regarding a child taken into possession without a court order by a governmental entity if,

among other conditions, the court is satisfied that the evidence shows that the child has been the victim of trafficking or of a continuous trafficking offense and that there is a substantial risk that the child will be the victim of trafficking in the future. The bill excepts a court from the requirement to order the return of the child to the appropriate person entitled to possession of the child at the conclusion of a full adversary hearing if, among other conditions, the court finds evidence sufficient to satisfy a person of ordinary prudence and caution that there was a danger that the child would be a victim of trafficking or of a continuous trafficking offense which was caused by an act or failure to act of the person entitled to possession. The bill requires, not later than May 1, 2016, the executive commissioner of the Health and Human Services Commission to adopt any standards and DFPS to establish the verification procedures necessary to implement the changes in law made by the bill.

H.B. 418 amends current law relating to child victims of trafficking who are placed in secure foster homes.

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 Subchapter A, Chapter 262, Family Code, by adding Section 262.011, as follows:

Sec. 262.011. PLACEMENT IN SECURE AGENCY FOSTER HOME OR SECURE AGENCY FOSTER GROUP HOME. Authorizes a court in an emergency, initial, or full adversary hearing conducted under this chapter to order that the child who is the subject of the hearing be placed in a secure agency foster home or secure agency foster group home verified in accordance with Section 42.0531, Human Resources Code, if the court finds that:

- (1) the placement is in the best interest of the child; and
- (2) the child's physical health or safety is in danger because the child has been recruited, harbored, transported, provided, or obtained for forced labor or commercial sexual activity, including any child subjected to an act specified in Section 20A.02 (Trafficking of Persons) or 20A.03 (Continuous Trafficking of Persons), Penal Code.

SECTION 2. Amends Section 262.104(a), Family Code, as follows:

(a) Authorizes an authorized representative of the Department of Family and Protective Services (DFPS), a law enforcement officer, or a juvenile probation officer, if there is no time to obtain a temporary restraining order or attachment before taking possession of a child consistent with the health and safety of that child, to take possession of a child without a court order under the following conditions, only:

- (1) and (2) Makes no change to these subdivisions;
- (3) on personal knowledge of facts that would lead a person of ordinary prudence and caution to believe that the child has been the victim of sexual abuse or of trafficking under Section 20A.02 or 20A.03, Penal Code;
- (4) on information furnished by another that has been corroborated by personal knowledge of facts and all of which taken together would lead a person of ordinary prudence and caution to believe that the child has been the victim of sexual abuse or of trafficking under Section 20A.02 or 20A.03, Penal Code; or
- (5) Makes no change to this subdivision.

SECTION 3. Amends Section 262.107(a), Family Code, as follows:

(a) Requires the court to order the return of the child at the initial hearing regarding a child taken in possession without a court order by a governmental entity unless the court is satisfied that:

(1) there is a continuing danger to the physical health or safety of the child if the child is returned to the parent, managing conservator, possessory conservator, guardian, caretaker, or custodian who is presently entitled to possession of the child or the evidence shows that the child has been the victim of sexual abuse or of trafficking under Section 20A.02 or 20A.03, Penal Code, on one or more occasions and that there is a substantial risk that the child will be the victim of sexual abuse or of trafficking in the future;

(2) and (3) Makes no change to these subdivisions.

SECTION 4. Amends Section 262.201(b), Family Code, as follows:

(b) Requires the court, at the conclusion of the full adversary hearing, to order the return of the child to the parent, managing conservator, possessory conservator, guardian, caretaker, or custodian entitled to possession unless the court finds sufficient evidence to satisfy a person of ordinary prudence and caution that:

(1) there was a danger to the physical health or safety of the child, including a danger that the child would be a victim of trafficking under Section 20A.02 or 20A.03, Penal Code, which was caused by an act or failure to act of the person entitled to possession and for the child to remain in the home is contrary to the welfare of the child;

(2) and (3) Makes no change to these subdivisions.

SECTION 5. Amends Subchapter C, Chapter 42, Human Resources Code, by adding Section 42.0531, as follows:

Sec. 42.0531. SECURE AGENCY FOSTER HOMES AND SECURE AGENCY FOSTER GROUP HOMES. (a) Authorizes the commissioners court of a county or governing body of a municipality to contract with a child-placing agency to verify a secure agency foster home or secure agency foster group home to provide a safe and therapeutic environment tailored to the needs of children who are victims of trafficking.

(b) Prohibits a child-placing agency from verifying a secure agency foster home or secure agency foster group home to provide services under this section unless the child-placing agency holds a license issued under this chapter that authorizes the agency to provide services to victims of trafficking in accordance with DFPS standards adopted under this chapter for child-placing agencies.

(c) Requires that a secure agency foster home or secure agency foster group home verified under this section provide:

(1) mental health and other services specifically designed to assist children who are victims of trafficking under Section 20A.02 or 20A.03, Penal Code, including services as set forth;

(2) individualized services based on the trauma endured by a child, as determined through comprehensive assessments of the service needs of the child;

(3) 24-hour services; and

(4) appropriate security through facility design, hardware, technology, and staffing.

SECTION 6. Requires the executive commissioner of the Health and Human Services Commission to adopt any standards and requires DFPS to establish the verification procedures necessary to implement the changes in law made by this Act not later than May 1, 2016.

SECTION 7. Effective date: September 1, 2015.