

## **BILL ANALYSIS**

Senate Research Center

H.B. 1542  
By: Price et al. (Birdwell)  
Health & Human Services  
5/16/2017  
Engrossed

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

H.B. 1542, which is identical to S.B. 907 that passed the Senate 27-3 early this session, amends the Family Code to require the Department of Family and Protective Services (DFPS), in selecting a foster care placement for a child, to consider whether the placement is in the child's best interests. H.B. 1542 requires DFPS, in determining whether a placement is in a child's best interests, to consider whether the placement is the least restrictive setting for the child; is the closest in geographic proximity to the child's home; is the most able to meet the identified needs of the child; and satisfies any expressed interests of the child relating to placement, when developmentally appropriate. H.B. 1542 specifies that, if a suitable relative or other designated caregiver is not available, placing the child in a foster home or a general residential operation operating as a cottage home is considered the least restrictive setting and defines "least restrictive setting" as a placement for a child that, in comparison to all other available placements, is the most family-like setting.

H.B. 1542 also makes it clear that, with respect to a child who is six years of age or younger and who is removed from the child's home, if a suitable relative or other designated caregiver is not available as a placement for the child, the least restrictive setting for the child is placement in: (1) a foster home; or (2) a general residential operation operating as a cottage home, only if DFPS determines it is in the best interest of the child.

H.B. 1542 also makes it clear that if DFPS receives a formal determination from the United States Department of Health and Human Services stating that implementing the changes in law made by this Act will result in a reduction in federal funding under either Title IV-E, Social Security Act (42 U.S.C. Section 670 et seq.) or a related source of federal funds, DFPS may not implement this Act.

H.B. 1542 amends current law relating to the definition of the least restrictive environment for the placement of children in foster care.

### **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 263.001(a), Family Code, by amending Subdivision (3-a) and adding Subdivision (3-b), as follows:

(3-a) Defines "least restrictive setting."

(3-b) Creates this subsection, defining "physician assistant," from existing text.

SECTION 2. Amends Section 263.001, Family Code, by adding Subsections (c) and (d), as follows:

(c) Provides that, with respect to a child who is older than six years of age and who is removed from the child's home, if a suitable relative or other designated caregiver is not

available as a placement for the child, placing the child in a foster home or a general residential operation operating as a cottage home is considered the least restrictive setting.

(d) Provides that with respect to a child who is six years of age or younger and who is removed from the child's home, if a suitable relative or other designated caregiver is not available as a placement for the child, the least restrictive setting for the child is placement in a foster home or a general residential operation operating as a cottage home, only if the Department of Family and Protective Services (DFPS) determines it is in the best interest of the child.

SECTION 3. Amends Section 264.001, Family Code, by adding Subdivision (3-a), to define "least restrictive setting."

SECTION 4. Amends Section 264.107, Family Code, by adding Subsection (c), as follows:

(c) Requires DFPS, in selecting a placement for a child, to consider whether the placement is in the child's best interest. Requires DFPS, in determining whether a placement is in a child's best interest, to consider whether the placement meets certain criteria.

SECTION 5. (a) Prohibits DFPS, if DFPS receives a formal determination from the United States Department of Health and Human Services stating that implementing the changes in law made by this Act will result in a reduction in federal funding under either Title IV-E, Social Security Act (42 U.S.C. Section 670 et seq.) or a related source of federal funds, from implementing this Act.

(b) Defines "formal determination" for the purpose of Subsection (a) of this section.

SECTION 6. Effective date: September 1, 2017.