

Reinforcing Risk Protection for Child Welfare Providers

BACKGROUND

Texas relies on residential childcare providers to provide placements, care, and services to children in the state's child welfare system. These functions have increased with the implementation of Community Based Care and other state and federal reforms. Child welfare providers are contracted through the Department of Family and Protective Services and licensed through the Health and Human Services Commission. They are held accountable through intensive licensure and contracting requirements and monitored on-site regularly.

Under statute and contract, providers have various insurance requirements. However, due to a shortage of insurance carriers, skyrocketing premiums for those willing to insure, and/or insufficient policy coverage it increasingly difficult for child welfare providers to obtain insurance coverage.

ISSUE

The vast majority of child welfare providers, including Community Based Care Single-Source Continuum Contractors are eligible for liability protection under the Charitable Immunity and Liability Act, Civil Remedies and Practices Code, Ch. 84. However, child welfare providers take on additional risk due to the complex needs of the children they serve, and risk associated with caring for behaviors such as, self-harm, suicidal ideation, and aggression.

Due to this issue the market to offer coverage to child welfare providers is declining, particularly for therapeutic care or caring for children with complex needs. This is a contributing factor to the state's capacity crisis for those hardest-to-place children.

THE IMPACT

- Child-serving organizations are not developing or utilizing capacity to serve children with complex behavioral health or medical needs.
- Insurers are dictating coverage rather than what is best for the child.
- Environment is threatening the sustainability of high-quality providers.

PROPOSED SOLUTION

The proposed bill intends to clarify liability protection afforded to child welfare providers under the Charitable Immunities Act as a means of addressing insurance coverage and stabilizing foster care capacity for the state. The language puts the burden on the operation or facility to be in "good-standing" as defined by the statute, to hold organizations accountable to current law regarding hiring, training, and supervision of employees.

