

By: Hull

H.B. No. 43

A BILL TO BE ENTITLED

AN ACT

relating to the contents of a petition in certain suits affecting the parent-child relationship.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 262.101, Family Code, is amended to read as follows:

Sec. 262.101. FILING PETITION BEFORE TAKING POSSESSION OF CHILD. (a) An original suit filed by a governmental entity that requests permission to take possession of a child without prior notice and a hearing must be supported by an affidavit sworn to by a person with personal knowledge and stating facts sufficient to satisfy a person of ordinary prudence and caution that:

(1) there is an immediate danger to the physical health or safety of the child or the child has been a victim of neglect or sexual abuse;

(2) continuation in the home would be contrary to the child's welfare;

(3) there is no time, consistent with the physical health or safety of the child, for a full adversary hearing under Subchapter C; and

(4) reasonable efforts, consistent with the circumstances and providing for the safety of the child, were made to prevent or eliminate the need for the removal of the child.

(b) The affidavit required by Subsection (a) must describe

1 all reasonable efforts that were made to prevent or eliminate the
2 need for the removal of the child.

3 SECTION 2. Section 262.105, Family Code, is amended by
4 adding Subsection (c) to read as follows:

5 (c) The affidavit required by Subsection (b) must describe
6 all reasonable efforts that were made to prevent or eliminate the
7 need for the removal of the child.

8 SECTION 3. Section 262.113, Family Code, is amended to read
9 as follows:

10 Sec. 262.113. FILING SUIT WITHOUT TAKING POSSESSION OF
11 CHILD. (a) An original suit filed by a governmental entity that
12 requests to take possession of a child after notice and a hearing
13 must be supported by an affidavit sworn to by a person with personal
14 knowledge and stating facts sufficient to satisfy a person of
15 ordinary prudence and caution that:

16 (1) there is a continuing danger to the physical
17 health or safety of the child caused by an act or failure to act of
18 the person entitled to possession of the child and that allowing the
19 child to remain in the home would be contrary to the child's
20 welfare; and

21 (2) reasonable efforts, consistent with the
22 circumstances and providing for the safety of the child, have been
23 made to prevent or eliminate the need to remove the child from the
24 child's home.

25 (b) The affidavit required by Subsection (a) must describe
26 all reasonable efforts that were made to prevent or eliminate the
27 need for the removal of the child.

1 SECTION 4. The changes in law made by this Act apply to a
2 suit affecting the parent-child relationship filed on or after the
3 effective date of this Act. A suit filed before the effective date
4 of this Act is governed by the law in effect on the date the suit is
5 filed, and the former law is continued in effect for that purpose.

6 SECTION 5. This Act takes effect on the 91st day after the
7 last day of the legislative session.