

By: Cason

H.B. No. 2299

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to certain procedures for taking possession of a child in a  
3 suit affecting the parent-child relationship involving the  
4 Department of Family and Protective Services.

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

6 SECTION 1. Sections 262.201(g), (h), and (j), Family Code,  
7 are amended to read as follows:

8 (g) In a suit filed under Section 262.101 or 262.105, at the  
9 conclusion of the full adversary hearing, the court shall order the  
10 return of the child to the parent, managing conservator, possessory  
11 conservator, guardian, caretaker, or custodian entitled to  
12 possession unless the court finds by a preponderance of the  
13 ~~[sufficient]~~ evidence ~~[to satisfy a person of ordinary prudence and~~  
14 ~~caution]~~ that:

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

21 (2) the urgent need for protection required the  
22 immediate removal of the child and reasonable efforts, consistent  
23 with the circumstances and providing for the safety of the child,  
24 were made to eliminate or prevent the child's removal; and

1           (3) reasonable efforts have been made to enable the  
2 child to return home, but there is a substantial risk of a  
3 continuing danger if the child is returned home.

4           (h) In a suit filed under Section 262.101 or 262.105, if the  
5 court finds by a preponderance of the ~~[sufficient]~~ evidence ~~[to~~  
6 ~~satisfy a person of ordinary prudence and caution]~~ that there is a  
7 continuing danger to the physical health or safety of the child and  
8 for the child to remain in the home is contrary to the welfare of the  
9 child, the court shall issue an appropriate temporary order under  
10 Chapter 105.

11           (j) In a suit filed under Section 262.113, at the conclusion  
12 of the full adversary hearing, the court shall issue an appropriate  
13 temporary order under Chapter 105 if the court finds by a  
14 preponderance of the ~~[sufficient]~~ evidence ~~[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 continuation of  
19 the child in the home would be contrary to the child's welfare; and

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

23           SECTION 2. Section 262.201, Family Code, as amended by this  
24 Act, applies only to a suit filed by the Department of Family and  
25 Protective Services on or after the effective date of this Act. A  
26 suit filed by the department before that date is governed by the law  
27 in effect on the date the suit was filed, and the former law is

1 continued in effect for that purpose.

2 SECTION 3. This Act takes effect September 1, 2021.