

By: Campos

H.B. No. 4905

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the definition of neglect of a child and suits affecting
3 the parent-child relationship in which the Department of Family and
4 Protective Services central is appointed joint managing
5 conservator with the parent.

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

7 SECTION 1. Section [261.001\(4\)\(B\)\(i\)](#), Family Code, is
8 amended to read as follows:

9 (i) the refusal by a person responsible for a
10 child's care, custody, or welfare to permit the child to remain in
11 or return to the child's home resulting in the placement of the
12 child in the joint managing conservatorship of the department
13 pursuant to section [262.352](#) if:

14 (a) the child has a severe emotional
15 disturbance;

16 (b) the person's refusal is based solely on
17 the person's inability to obtain mental health services necessary
18 to protect the safety and well-being of the child; and

19 (c) the person has exhausted all reasonable
20 means available to the person to obtain the mental health services
21 described by Sub-subparagraph (b).

22 SECTION 2. Section [262.352](#), Family Code, is amended to read
23 as follows:

24 (b) ~~Expired.~~ Before a court may enter an order appointing the

1 department as the child's joint managing conservator with the
2 parent or legal guardian, the court must find sufficient evidence
3 to satisfy a person of ordinary prudence and caution that:

4 (1) the parent or legal guardian has exhausted all
5 reasonable means available to the parent or legal guardian to
6 obtain mental health services to meet the child's needs;

7 (2) the department is able to provide the services
8 necessary to meet the child's mental health needs;

9 (3) the department has identified an available licensed
10 placement for the child that can meet the child's mental health
11 needs;

12 (4) the parent or legal guardian has agreed to actively
13 participate in the child's service plan in preparation for the
14 child's return home; and

15 (5) the orders appointing the parent and the department
16 as the child's joint managing conservators is in the child's best
17 interest.

18 (c) ~~Expired.~~ Unless the court finds that the parent is
19 indigent, the court shall order child support and medical support
20 to be paid to the department in the amount equal to the cost of care
21 to offset the cost of the child's placement and medical care.

22 (d) A child in the joint managing conservatorship of the
23 parent or legal guardian and the department shall not receive
24 temporary emergency care under Section 264.107(g) in a hotel or
25 other unlicensed setting.

26 (e) If the department has not identified an available
27 licensed placement for the child that can meet the child's mental

1 health needs, the court shall either:

2 (i) Order that the child be placed with the parent or
3 legal guardian until another available licensed setting is
4 identified by the department, or

5 (ii) Discharge the department as the child's joint
6 managing conservator and dismiss the suit affecting the
7 parent-child relationship.

8 SECTION 2. This Act takes effect September 1, 2023.