

By: Hughes, et al.
(Vasut)

S.B. No. 1269

A BILL TO BE ENTITLED

AN ACT

relating to admissibility and disclosure of certain evidence in a suit affecting the parent-child relationship filed by the Department of Family and Protective Services.

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

SECTION 1. Chapter 104, Family Code, is amended by designating Sections 104.001 through 104.008 as Subchapter A and adding a subchapter heading to read as follows:

SUBCHAPTER A. GENERAL PROVISIONS

SECTION 2. Chapter 104, Family Code, is amended by adding Subchapter B to read as follows:

SUBCHAPTER B. SUITS FILED BY DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES

Sec. 104.101. DEFINITION. In this subchapter, "department" means the Department of Family and Protective Services.

Sec. 104.102. STATEMENT BY INDIVIDUAL UNDERGOING SUBSTANCE USE DISORDER TREATMENT OR EVALUATION. In a suit affecting the parent-child relationship filed by the department concerning a child who is alleged in the suit to have been abused or neglected, a statement made by an individual undergoing voluntary or court-ordered treatment for a substance use disorder, or undergoing an evaluation for admission to treatment for a substance use disorder, is not admissible for use against the individual if the statement was made to any person involved in the individual's

1 treatment or evaluation.

2 Sec. 104.103. STATEMENT BY INDIVIDUAL UNDERGOING MENTAL
3 HEALTH TREATMENT OR EVALUATION. In a suit affecting the
4 parent-child relationship filed by the department concerning a
5 child who is alleged in the suit to have been abused or neglected, a
6 statement made by an individual undergoing voluntary or
7 court-ordered therapeutic treatment for a mental illness, or
8 undergoing a psychological or psychiatric evaluation for that
9 treatment, is not admissible for use against the individual if the
10 statement was made to any person involved in the individual's
11 treatment or evaluation.

12 Sec. 104.104. STATEMENT BY PERSON REQUIRED TO REPORT ABUSE
13 OR NEGLECT OF CHILD. In a suit affecting the parent-child
14 relationship filed by the department concerning a child who is
15 alleged in the suit to have been abused or neglected, an
16 out-of-court statement regarding the alleged abuse or neglect made
17 to the department under Subchapter B, Chapter 261, is not
18 admissible into evidence at any evidentiary proceeding unless the
19 statement can be independently corroborated by other evidence.

20 SECTION 3. Section 262.014, Family Code, is amended to read
21 as follows:

22 Sec. 262.014. DISCLOSURE OF CERTAIN EVIDENCE. The [~~On the~~
23 ~~request of the attorney for a parent who is a party in a suit~~
24 ~~affecting the parent-child relationship filed under this chapter,~~
25 ~~or the attorney ad litem for the parent's child, the] Department of
26 Family and Protective Services shall, not later than the seventh
27 day before the date of the full adversary hearing, provide to each~~

1 party:

2 (1) the name of any person, excluding a department
3 employee, whom the department will call as a witness to any of the
4 allegations contained in the petition filed by the department and
5 any witness statement provided by the person;

6 (2) a copy of any offense report relating to the
7 allegations contained in the petition filed by the department that
8 will be used in court to refresh a witness's memory; ~~and~~

9 (3) a copy of any photograph, video, or recording that
10 will be presented as evidence;

11 (4) a copy of any report submitted to the department by
12 a medical provider with the forensic assessment center network
13 regarding a child who is the subject of the suit;

14 (5) all exculpatory, impeachment, or mitigating
15 evidence in the possession, custody, or control of the department
16 or its agent that:

17 (A) is relevant to a parent who is a party in the
18 suit; and

19 (B) tends to negate any claim of abuse or neglect
20 of a child by the parent; and

21 (6) a true and correct copy of the department's
22 investigative file, including the intake report with only the name
23 of the reporting party redacted.

24 SECTION 4. The change in law made by this Act applies to a
25 suit affecting the parent-child relationship filed by the
26 Department of Family and Protective Services on or after the
27 effective date of this Act. A suit affecting the parent-child

1 relationship filed by the department before the effective date of
2 this Act is governed by the law in effect on the date the suit was
3 filed, and the former law is continued in effect for that purpose.

4 SECTION 5. This Act takes effect September 1, 2023.