

By: Schatzline

H.B. No. 3758

Substitute the following for H.B. No. 3758:

By: Hayes

C.S.H.B. No. 3758

A BILL TO BE ENTITLED

AN ACT

relating to admissibility and disclosure of certain evidence in a civil suit concerning a child alleged to have been abused or neglected or to be at risk of abuse or neglect filed by a governmental entity.

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. CERTAIN SUITS FILED BY A GOVERNMENTAL ENTITY

Sec. 104.101. STATEMENT BY INDIVIDUAL UNDERGOING SUBSTANCE USE DISORDER TREATMENT OR EVALUATION. In a civil suit filed by a governmental entity concerning a child who is alleged in the suit to have been abused or neglected or to be at risk of abuse or neglect, 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 that is court-ordered or required under a service plan developed under Subchapter B, Chapter 263, is not admissible in any civil proceeding for use against the individual if the statement was made to any person involved in the individual's treatment or

1 evaluation.

2 Sec. 104.102. STATEMENT BY INDIVIDUAL UNDERGOING MENTAL
3 HEALTH TREATMENT OR EVALUATION. In a civil suit filed by a
4 governmental entity concerning a child who is alleged in the suit to
5 have been abused or neglected or to be at risk of abuse or neglect, a
6 statement made by an individual undergoing voluntary or
7 court-ordered therapeutic treatment for a mental illness, or
8 undergoing a psychological, psychosocial, or psychiatric
9 evaluation for that treatment that is court-ordered or required
10 under a service plan developed under Subchapter B, Chapter 263, is
11 not admissible for use against the individual in any civil
12 proceeding if the statement was made to any person involved in the
13 individual's treatment or evaluation.

14 Sec. 104.103. STATEMENT BY PERSON REQUIRED TO REPORT ABUSE
15 OR NEGLECT OF CHILD. In a civil suit filed by a governmental entity
16 concerning a child who is alleged in the suit to have been abused or
17 neglected or to be at risk of abuse or neglect, an out-of-court
18 statement regarding any alleged abuse or neglect made to an entity
19 described by Section 261.103 under Subchapter B, Chapter 261, is
20 not admissible into evidence in any civil proceeding unless the
21 statement can be independently corroborated by other evidence.

22 Sec. 104.104. STATEMENT OR TESTIMONY OF ALLEGED PERPETRATOR
23 OF ABUSE OR NEGLECT. In a civil suit filed by a governmental entity
24 concerning a child who is alleged in the suit to have been abused or
25 neglected or to be at risk of abuse or neglect, the alleged
26 perpetrator of any abuse or neglect may not be compelled to make a
27 statement during an investigation under Chapter 261 or to testify

1 at any civil proceeding. Neither the court nor the counsel may
2 comment on the alleged perpetrator's refusal to make a statement or
3 to testify, and the trier of fact may not draw any adverse inference
4 from the alleged perpetrator's refusal to make a statement or to
5 testify.

6 SECTION 3. Chapter 301, Family Code, is amended by adding
7 Subchapter D, and a heading is added to that subchapter to read as
8 follows:

9 SUBCHAPTER D. DISCLOSURES IN SUIT FILED BY A GOVERNMENTAL ENTITY

10 SECTION 4. Section 262.014, Family Code, is transferred to
11 Subchapter D, Chapter 301, Family Code, as added by this Act,
12 redesignated as Section 301.151, Family Code, and amended to read
13 as follows:

14 Sec. 301.151 [~~262.014~~]. DISCLOSURE OF CERTAIN EVIDENCE IN
15 CERTAIN SUITS. (a) In [~~On the request of the attorney for a parent~~
16 ~~who is a party in~~] a civil suit concerning a child who is alleged to
17 have been abused or neglected or to be at risk of abuse or neglect
18 [~~affecting the parent-child relationship~~] filed by a governmental
19 entity [~~under this chapter, or the attorney ad litem for the~~
20 ~~parent's child~~], the governmental entity [~~Department of Family and~~
21 ~~Protective Services~~] shall[, ~~before the full adversary hearing,~~]
22 provide to each party:

23 (1) the name of any person, excluding an [~~a~~
24 ~~department~~] employee of the governmental entity, whom the
25 governmental entity [~~department~~] will call as a witness to any of
26 the allegations contained in the petition filed by the governmental
27 entity and any witness statement provided by the person

1 ~~[department];~~

2 (2) a copy of any offense report relating to the
3 allegations contained in the petition filed by the governmental
4 entity ~~[department that will be used in court to refresh a witness's~~
5 ~~memory]; [and]~~

6 (3) a copy of any photograph, video, or recording
7 relating to the allegations contained in the petition filed by the
8 governmental entity;

9 (4) a copy of any medical record or report submitted to
10 the governmental entity by a medical provider, including a provider
11 with the forensic assessment center network regarding a child who
12 is the subject of the suit;

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

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

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

20 (6) a true and correct copy of any investigative file
21 under Chapter 261, including any intake report, with only the
22 identifying information of a reporting party redacted ~~[that will be~~
23 ~~presented as evidence].~~

24 (b) In a civil suit filed by a governmental entity
25 concerning a child who is alleged to have been abused or neglected
26 or to be at risk of abuse or neglect, the governmental entity shall
27 provide the information under Subsection (a) not later than the

fifth business day before the date of:

(1) the full adversary hearing in a suit filed under Section 262.101 or 262.105; or

(2) the initial hearing in a suit filed under Section 262.404 or 264.203.

(c) If at any time before, during, or after a hearing or before the end of a trial, the governmental entity or its agents discover any additional document, item, or information required to be disclosed under Subsection (a), the governmental entity shall immediately provide the document, item, or information to each party.

(d) If after a trial the governmental entity or its agents discover any additional document, item, or information described by Subsection (a)(5), the governmental entity shall immediately provide the document, item, or information to each party.

(e) In a civil suit filed by a governmental entity concerning a child who is alleged to have been abused or neglected or to be at risk of abuse or neglect, any document, item, or information not timely disclosed in accordance with this section is not admissible in any civil proceeding if submitted by the governmental entity.

(f) To the extent of any conflict, this section prevails over Chapter 552, Government Code.

(g) This section does not prohibit the parties in a civil suit concerning a child who is alleged to have been abused or neglected or to be at risk of abuse or neglect filed by a governmental entity from requesting discovery and documentation

1 under this section or the Texas Rules of Civil Procedure.

2 SECTION 5. The change in law made by this Act applies to a
3 civil suit filed by a governmental entity that is pending on the
4 effective date of this Act or filed on or after the effective date
5 of this Act.

6 SECTION 6. This Act takes effect September 1, 2025.