

By: Schatzline

H.B. No. 3758

A BILL TO BE ENTITLED

AN ACT

relating to admissibility and disclosure of certain evidence in a 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 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, is not admissible in any judicial proceeding for use against the individual if the statement was made to any person involved in the individual's treatment or evaluation.

Sec. 104.102. STATEMENT BY INDIVIDUAL UNDERGOING MENTAL HEALTH TREATMENT OR EVALUATION. In a suit filed by a governmental

1 entity concerning a child who is alleged in the suit to have been
2 abused or neglected or to be at risk of abuse or neglect, a
3 statement made by an individual undergoing voluntary or
4 court-ordered therapeutic treatment for a mental illness, or
5 undergoing a psychological, psychosocial, or psychiatric
6 evaluation for that treatment, is not admissible for use against
7 the individual in any judicial proceeding if the statement was made
8 to any person involved in the individual's treatment or evaluation.

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

17 Sec. 104.104. STATEMENT OR TESTIMONY OF ALLEGED PERPETRATOR
18 OF ABUSE OR NEGLECT. In a suit filed by a governmental entity
19 concerning a child who is alleged in the suit to have been abused or
20 neglected or to be at risk of abuse or neglect, the alleged
21 perpetrator of any abuse or neglect may not be compelled to make a
22 statement during an investigation under Chapter 261 or to testify
23 at any judicial proceeding. Neither the court nor the counsel may
24 comment on the alleged perpetrator's refusal to make a statement or
25 to testify, and the trier of fact may not draw any adverse inference
26 from the alleged perpetrator's refusal to make a statement or to
27 testify.

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

SUBCHAPTER D. DISCLOSURES IN SUIT FILED BY A GOVERNMENTAL ENTITY

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

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

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

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

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

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

8 (5) all exculpatory, impeachment, or mitigating
9 evidence in the possession, custody, or control of the governmental
10 entity or its agent that:

11 (A) is relevant to a parent who is a party in the
12 suit; and

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

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

19 (b) In a suit filed by a governmental entity concerning a
20 child who is alleged to have been abused or neglected or to be at
21 risk of abuse or neglect, the governmental entity shall provide the
22 information under Subsection (a) not later than the seventh day
23 before the date of:

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

26 (2) the initial hearing in a suit filed under Section
27 262.404 or 264.203.

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

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

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

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

18 (g) This section does not prohibit the parties in a suit
19 concerning a child who is alleged to have been abused or neglected
20 or to be at risk of abuse or neglect filed by a governmental entity
21 from agreeing to discovery and documentation requirements equal to
22 or greater than those required under this section.

23 SECTION 5. The change in law made by this Act applies to a
24 suit filed by a governmental entity on or after the effective date
25 of this Act. A suit filed by a governmental entity before the
26 effective date of this Act is governed by the law in effect on the
27 date the suit was filed, and the former law is continued in effect

1 for that purpose.

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