

BILL ANALYSIS

Senate Research Center
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C.S.H.B. 2331
By: Morrison (Nelson)
Health & Human Services
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Committee Report (Substituted)

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

In response to a rash of newborn abandonments, the Texas Legislature several years ago enacted the country's first "Baby Moses" law, allowing mothers to relinquish an unwanted newborn to a designated emergency infant care provider. The intent of the law is to provide a responsible alternative to newborn abandonment by providing the mother with anonymity and exemption from criminal prosecution. However, differing provisions of the statute governing the anonymity of the mother have led to some confusion among officials who deal with these cases. C.S.H.B. 2331 clarifies and strengthens the anonymity and confidentiality requirements in cases where a mother voluntarily relinquishes her newborn to a designated emergency care provider.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

[While the statutory reference in this bill is to the Department of Protective and Regulatory Services (DPRS), the following amendments affect the Department of Family and Protective Services (DFPS), as the successor agency to DPRS.]

SECTION 1. Amends Subchapter D, Chapter 262, Family Code, by adding Sections 262.308 and 262.309, as follows:

Sec. 262.308. CONFIDENTIALITY. (a) Provides that all identifying information, documentation, or other records regarding a person who voluntarily delivers a child to a designated emergency infant care provider under this subchapter is confidential and not subject to release to any individual or entity except as provided by Subsection (b).

(b) Provides that any pleading or other document filed with a court under this subchapter is confidential, is not public information for purposes of Chapter 552 (Public Information), Government Code, and is prohibited from being released to a person other than to a party in a suit regarding the child, the party's attorney, or an attorney ad litem or guardian ad litem appointed in the suit.

(c) Requires the court to close the hearing to the public unless the court finds that the interests of the child or the public would be better served by opening the hearing to the public in a suit concerning a child for whom DFPS assumes care, control, and custody under this subchapter.

(d) Provides that unless the disclosure, receipt, or use is permitted by this section, a person commits an offense if the person knowingly discloses, receives, uses, or permits the use of information derived from records or files described by this section or knowingly discloses identifying information concerning a person who voluntarily delivers a child to a designated emergency infant care provider. Provides that an offense under this subsection is a Class B misdemeanor.

Sec. 262.309. SEARCH FOR RELATIVES NOT REQUIRED. Provides that DFPS is not required to conduct a search for the relatives of a child for whom DFPS assumes care, control, and custody under this subchapter.

SECTION 2. Amends Section 263.407, Family Code, by amending Subsection (a) and adding Subsections (a-1) and (c), as follows:

(a) Makes modifications to the constitution of a rebuttable presumption

(a-1) Authorizes a party that seeks to rebut a presumption in Subsection (a) to do so at any time before the parent-child relationship is terminated with regard to the child.

(c) Requires DPRS to take certain steps before filing a petition to terminate the parental rights with regard to a child taken into DPRS custody under Section 262.303 (Notification of Possession of Abandoned Child).

SECTION 3. Repealer: Section 263.3025(d) (referring to preparing the permanency plan), Family Code.

SECTION 4. Provides that the change in law made by this Act applies to a child for whom the Department of Family and Protective Services assumes responsibility under Subchapter D, Chapter 262 (Procedures in Suit by Governmental Entity to Protect Health and Safety of Child), Family Code, as amended by this Act, regardless of whether DFPS assumed responsibility for the child before, on, or after the effective date of this Act.

SECTION 5. Effective date: September 1, 2005.