

By: Hilderbran

H.B. No. 4255

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the protection of children by ensuring reports of abuse
3 or neglect, protecting children from abuse and neglect, and
4 ensuring that births are reported; providing criminal penalties.

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

6 SECTION 1. Section 261.109, Family Code, is amended by
7 amending Subsection (b) and adding Subsection (c) to read as
8 follows:

9 (b) Except as provided by Subsection (c), an [An] offense
10 under this section is a Class B misdemeanor, unless it is shown on
11 the trial of the offense that the person has previously been
12 convicted under this section, in which event the offense is a Class
13 A misdemeanor.

14 (c) An offense under this section committed by a person who
15 is a professional as defined by Section 261.101(b) is a Class A
16 misdemeanor, unless it is shown on the trial of the offense that the
17 person has previously been convicted under this section, in which
18 event the offense is a state jail felony.

19 SECTION 6. Section 262.001, Family Code, is amended by
20 amending Subsection (b) and adding Subsection (c) to read as
21 follows:

22 (b) In determining the reasonable efforts, if any, that are
23 required to be made with respect to preventing or eliminating the
24 need to remove a child from the child's home or to make it possible

1 to return a child to the child's home, the child's health and safety
2 is the paramount concern.

3 (c) In making a determination under Subsection (b), the
4 court may find that based on the circumstances no reasonable
5 efforts would prevent or eliminate the need to remove a child and
6 that the department satisfied the requirements of Subsection (b)
7 even though the department made no efforts to prevent or eliminate
8 the need to remove a child.

9 SECTION 7. Section 262.1015(b), Family Code, is amended to
10 read as follows:

11 (b) A court may issue a temporary restraining order in a
12 suit by the department for the removal of an alleged perpetrator
13 under Subsection (a) if the department's petition states facts
14 sufficient to satisfy the court that:

15 (1) there is an immediate danger to the physical
16 health or safety of the child or the child has been a victim of
17 sexual abuse;

18 (2) there is no time, consistent with the physical
19 health or safety of the child, for an adversary hearing;

20 (3) the child is not in danger of abuse from a parent
21 or other adult with whom the child will continue to reside in the
22 residence of the child; ~~and~~

23 (4) the parent or other adult with whom the child will
24 continue to reside in the child's home is likely to:

25 (A) make a reasonable effort to monitor the
26 residence; and

27 (B) report to the department and the appropriate

1 law enforcement agency any attempt by the alleged perpetrator to
2 return to the residence; and

3 (5) the issuance of the order is in the best interest
4 of the child.

5 SECTION 8. Section 262.102(b), Family Code, is amended to
6 read as follows:

7 (b) In determining whether the circumstances described by
8 Subsections (a)(1) and (2) exist [~~there is an immediate danger to~~
9 ~~the physical health or safety of a child~~], the court shall [~~may~~]
10 consider whether the child's household includes a person who has:

11 (1) abused or neglected another child in a manner that
12 caused serious injury to or the death of the other child; or

13 (2) sexually abused another child.

14 SECTION 9. Section 195.004, Health and Safety Code, is
15 amended by amending Subsection (d) and adding Subsection (d-1) to
16 read as follows:

17 (d) Except as provided by Subsection (d-1), an [~~An~~] offense
18 under this section is a Class C misdemeanor.

19 (d-1) An offense under this section for failure to perform a
20 duty required by Section 192.003 is a Class A misdemeanor.

21 SECTION 10. Section 25.091, Education Code, as amended by
22 this Act, applies beginning with the 2009-2010 school year.

23 SECTION 11. The changes in law made by this Act to Sections
24 25.093 and 25.094, Education Code, Section 261.109, Family Code,
25 and Section 195.004, Health and Safety Code, apply only to an
26 offense committed on or after the effective date of this Act. An
27 offense committed before the effective date of this Act is governed

1 by the law in effect when the offense was committed, and the former
2 law is continued in effect for that purpose. For purposes of this
3 section, an offense is committed before the effective date of this
4 Act if any element of the offense occurs before that date.

5 SECTION 12. The change in law made by this Act to Section
6 262.1015(b), Family Code, applies only to a petition for a
7 temporary restraining order in a suit by the Department of Family
8 and Protective Services filed on or after the effective date of this
9 Act. A petition filed before the effective date of this Act is
10 governed by the law in effect on the date the petition was filed,
11 and the former law is continued in effect for that purpose.

12 SECTION 13. This Act takes effect September 1, 2009.