

By: Hernandez

H.B. No. 4425

A BILL TO BE ENTITLED

AN ACT

relating to authorizing a suit to declare that certain children have been abused, neglected, or abandoned.

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

SECTION 1. Title 2, Family Code, is amended by adding Subtitle D to read as follows:

SUBTITLE D. SPECIAL DECLARATORY ACTIONS

CHAPTER 46. SPECIAL DECLARATORY ACTIONS

Sec. 46.001. PETITION. A child who is not a citizen of the United States and who is younger than 21 years of age, or a managing conservator or guardian of the child, may file a suit in a court having family law jurisdiction requesting the court to declare that the child is court-dependent and that reunification with one or both of the immigrant's parents is not viable due to abuse, neglect or abandonment, or a similar basis found under state law.

Sec. 46.002. NOTICE. (a) The court shall issue notice of the filing of a suit under this chapter to the parents of a child older than 18 years of age or to the parents of a child younger than 18 years of age.

(b) If the identity or location of the child's parents is unknown or if the parents reside outside of the United States, the court may serve notice using any alternative method of service the court determines is appropriate or waive service when the child is described in section 101(a)(27)(J) and section 287(h) of the

1 Immigration and Nationality Act.

2 Sec. 46.003. HEARING. The court shall hold a hearing on a  
3 petition filed under this chapter not later than the 14th day after  
4 the date the petition is filed or a similar basis.

5 Sec. 46.004. COURT ORDER. The court shall render an order  
6 declaring that the child is court-dependent and that reunification  
7 with one or both of the immigrant's parents is not viable due to  
8 abuse, neglect or abandonment, and a similar basis found under  
9 state law if the court finds that:

10 (1) reunification of the child with the child's parent  
11 is not viable because of abandonment, abuse or neglect of the child;

12 (2) it is not in the child's best interests to return  
13 the child to the child's or the parent's previous country of origin  
14 or country of last habitual residence; and

15 (3) it is in the best interests of the child for the  
16 child to remain in the United States.

17 Sec. 46.005. NOTICE TO DEPARTMENT OF FAMILY AND PROTECTIVE  
18 SERVICES; DUTIES. (a) If the court renders an order described by  
19 Section 46.004, the court shall notify the Department of Family and  
20 Protective Services of the order and provide the department with  
21 the contact information for the child.

22 (b) On receipt of notice under this section, the Department  
23 of Family and Protective Services shall open an investigation  
24 concerning the child to determine whether the child qualifies for  
25 services provided by the department.

26 SECTION 2. This Act takes effect immediately if it receives  
27 a vote of two-thirds of all the members elected to each house, as

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1 provided by Section 39, Article III, Texas Constitution. If this  
2 Act does not receive the vote necessary for immediate effect, this  
3 Act takes effect September 1, 2009.