

By: Nelson, Uresti

S.B. No. 786

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the protection of children from abuse and neglect.

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

4 SECTION 1. Subsection (b), Section 262.1015, Family Code,  
5 is amended to read as follows:

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

10 (1) there is an immediate danger to the physical  
11 health or safety of the child or the child has been a victim of  
12 sexual abuse;

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

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

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

20 (A) make a reasonable effort to monitor the  
21 residence; and

22 (B) report to the department and the appropriate  
23 law enforcement agency any attempt by the alleged perpetrator to  
24 return to the residence; and

1           (5) the issuance of the order is in the best interest  
2 of the child.

3           SECTION 2. Subsection (b), Section 262.102, Family Code, is  
4 amended to read as follows:

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

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

11           (2) sexually abused another child.

12           SECTION 3. The change in law made by this Act to Subsection  
13 (b), Section 262.1015, Family Code, applies only to a petition for a  
14 temporary restraining order in a suit by the Department of Family  
15 and Protective Services filed on or after the effective date of this  
16 Act. A petition filed before the effective date of this Act is  
17 governed by the law in effect on the date the petition was filed,  
18 and the former law is continued in effect for that purpose.

19           SECTION 4. This Act takes effect September 1, 2009.