

1-1 By: Nelson S.B. No. 786
1-2 (In the Senate - Filed February 11, 2009; March 4, 2009,
1-3 read first time and referred to Committee on Health and Human
1-4 Services; March 25, 2009, reported favorably by the following
1-5 vote: Yeas 9, Nays 0; March 25, 2009, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the protection of children from abuse and neglect.

1-9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-10 SECTION 1. Subsection (b), Section 262.1015, Family Code,
1-11 is amended to read as follows:

1-12 (b) A court may issue a temporary restraining order in a
1-13 suit by the department for the removal of an alleged perpetrator
1-14 under Subsection (a) if the department's petition states facts
1-15 sufficient to satisfy the court that:

1-16 (1) there is an immediate danger to the physical
1-17 health or safety of the child or the child has been a victim of
1-18 sexual abuse;

1-19 (2) there is no time, consistent with the physical
1-20 health or safety of the child, for an adversary hearing;

1-21 (3) the child is not in danger of abuse from a parent
1-22 or other adult with whom the child will continue to reside in the
1-23 residence of the child; ~~and~~

1-24 (4) the parent or other adult with whom the child will
1-25 continue to reside in the child's home is likely to:

1-26 (A) make a reasonable effort to monitor the
1-27 residence; and

1-28 (B) report to the department and the appropriate
1-29 law enforcement agency any attempt by the alleged perpetrator to
1-30 return to the residence; and

1-31 (5) the issuance of the order is in the best interest
1-32 of the child.

1-33 SECTION 2. Subsection (b), Section 262.102, Family Code, is
1-34 amended to read as follows:

1-35 (b) In determining whether the circumstances described by
1-36 Subsections (a)(1) and (2) exist ~~[there is an immediate danger to~~
1-37 ~~the physical health or safety of a child]~~, the court shall ~~[may]~~
1-38 consider whether the child's household includes a person who has:

1-39 (1) abused or neglected another child in a manner that
1-40 caused serious injury to or the death of the other child; or

1-41 (2) sexually abused another child.

1-42 SECTION 3. The change in law made by this Act to Subsection
1-43 (b), Section 262.1015, Family Code, applies only to a petition for a
1-44 temporary restraining order in a suit by the Department of Family
1-45 and Protective Services filed on or after the effective date of this
1-46 Act. A petition filed before the effective date of this Act is
1-47 governed by the law in effect on the date the petition was filed,
1-48 and the former law is continued in effect for that purpose.

1-49 SECTION 4. This Act takes effect September 1, 2009.

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