

By: Zerwas

H.B. No. 794

A BILL TO BE ENTITLED

AN ACT

1
2 relating to investigations of child abuse or neglect, including the
3 placement of children removed from their homes as a result of an
4 investigation.

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

6 SECTION 1. Sections 262.112(a) and (b), Family Code, are
7 amended to read as follows:

8 (a) The Department of Family and Protective [~~and~~
9 ~~Regulatory~~] Services and the parent, conservator, or legal guardian
10 of a child are [~~is~~] entitled to an expedited hearing under this
11 chapter in any proceeding in which a hearing is required if the
12 department determines that a child should be removed from the
13 child's home because of an immediate danger to the physical health
14 or safety of the child.

15 (b) In any proceeding in which an expedited hearing is held
16 under Subsection (a), the department, parent, conservator, legal
17 guardian, or other party to the proceeding is entitled to an
18 expedited appeal on a ruling by a court regarding the removal of
19 [~~that~~] the child [~~may not be removed~~] from the child's home.

20 SECTION 2. Sections 262.114(a) and (b), Family Code, are
21 amended to read as follows:

22 (a) Before a full adversary hearing under Subchapter C, the
23 Department of Family and Protective Services must perform a
24 background and criminal history check of the relatives or other

1 designated individuals identified as a potential relative or
2 designated caregiver, as defined by Section 264.751, on the
3 proposed child placement resources form provided under Section
4 261.307. The department shall evaluate each person listed on the
5 form to determine the relative or other designated individual who
6 would be the most appropriate substitute caregiver for the child
7 and may [~~must~~] complete a home study of the most appropriate
8 substitute caregiver, if any, before the full adversary hearing.
9 Until the department identifies a relative or other designated
10 individual qualified to be a substitute caregiver, the department
11 must continue to explore substitute caregiver options. The time
12 frames in this subsection do not apply to a relative or other
13 designated individual located in another state.

14 (b) The department may place a child with a relative or
15 other designated individual identified on the proposed child
16 placement resources form unless [~~if~~] the department determines that
17 the placement is not in the best interest of the child. The
18 department may place the child with the relative or designated
19 individual before conducting the background and criminal history
20 check [~~or home study~~] required under Subsection (a). The
21 department shall provide a copy of an informational manual required
22 under Section 261.3071 to the relative or other designated
23 caregiver at the time of the child's placement.

24 SECTION 3. Subchapter B, Chapter 262, Family Code, is
25 amended by adding Section 262.115 to read as follows:

26 Sec. 262.115. LIMITATION ON PLACEMENT WITH DESIGNATED
27 PERSON. (a) Except as provided by Subsection (c), the Department

1 of Family and Protective Services may not place a child with a
2 person designated by the parent or other person having legal
3 custody of the child under Section 262.114 if the department
4 determines that:

5 (1) the placement would expose the child to immediate
6 danger to the child's physical health or safety; or

7 (2) the designated person or another person in the
8 designated person's household:

9 (A) is listed in the department's central
10 registry maintained under Section 261.002 with a finding that the
11 department confirmed, had reason to believe, or could not determine
12 that the person abused or neglected a child;

13 (B) is the subject of a report of child abuse or
14 neglect being investigated by the department;

15 (C) has been found to have committed family
16 violence and is or has been the subject of a protective order
17 rendered under Title 4;

18 (D) has been convicted of a felony, is under
19 indictment for or charged with an offense punishable as a felony, or
20 is under investigation by a state or federal law enforcement agency
21 for an offense punishable as a felony; or

22 (E) has previously voluntarily relinquished
23 parental rights as the result of an allegation of child abuse or
24 neglect.

25 (b) A law enforcement agency in this state, on request of
26 the department, shall assist in conducting a criminal background
27 check on a designated person or any other person in the designated

1 person's household.

2 (c) The department may place a child with a person described
3 by Subsection (a) if the department determines that placement of
4 the child with the designated person will not endanger the child.

5 (d) If the department determines that the designated person
6 under Section 262.114 is not an appropriate placement for the
7 child, the department shall immediately provide the parent or other
8 person having legal custody of the child with written notice
9 stating the specific facts leading to the department's objections
10 to the placement. The parent or other person having legal custody
11 of the child may challenge the department's placement decision by
12 filing a motion for a hearing before the court. The court shall
13 render an order regarding placement of the child after hearing
14 testimony from the parties. The court may approve the placement of
15 the child with the designated person and order any modification the
16 court determines necessary to address the department's written
17 objections.

18 SECTION 4. The changes in law made by this Act apply only to
19 an investigation of a report of child abuse or neglect that is made,
20 or a suit affecting the parent-child relationship that is
21 commenced, on or after the effective date of this Act. A report
22 that is made or a suit that is commenced before the effective date
23 of this Act is governed by the law in effect on the date the report
24 was made or the suit was commenced, and the former law is continued
25 in effect for that purpose.

26 SECTION 5. This Act takes effect September 1, 2011.