

1-1 By: Gonzalez (Senate Sponsor - Harris) H.B. No. 841  
1-2 (In the Senate - Received from the House April 11, 2011;  
1-3 April 20, 2011, read first time and referred to Committee on  
1-4 Jurisprudence; May 5, 2011, reported favorably by the following  
1-5 vote: Yeas 7, Nays 0; May 5, 2011, sent to printer.)

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

1-8 relating to certain statutory references to the Department of  
1-9 Family and Protective Services.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Section 33.003(f), Family Code, is amended to  
1-12 read as follows:

1-13 (f) The court may appoint to serve as guardian ad litem:

1-14 (1) a person who may consent to treatment for the minor  
1-15 under Sections 32.001(a)(1)-(3);

1-16 (2) a psychiatrist or an individual licensed or  
1-17 certified as a psychologist under Chapter 501, Occupations Code;

1-18 (3) an appropriate employee of the Department of  
1-19 Family and Protective [~~and Regulatory~~] Services;

1-20 (4) a member of the clergy; or

1-21 (5) another appropriate person selected by the court.

1-22 SECTION 2. Section 33.008, Family Code, is amended to read  
1-23 as follows:

1-24 Sec. 33.008. PHYSICIAN'S DUTY TO REPORT ABUSE OF A MINOR;  
1-25 INVESTIGATION AND ASSISTANCE. (a) A physician who has reason to  
1-26 believe that a minor has been or may be physically or sexually  
1-27 abused by a person responsible for the minor's care, custody, or  
1-28 welfare, as that term is defined by Section 261.001, shall  
1-29 immediately report the suspected abuse to the Department of Family  
1-30 and Protective [~~and Regulatory~~] Services and shall refer the minor  
1-31 to the department for services or intervention that may be in the  
1-32 best interest of the minor.

1-33 (b) The Department of Family and Protective [~~and~~  
1-34 ~~Regulatory~~] Services shall investigate suspected abuse reported  
1-35 under this section and, if appropriate, shall assist the minor in  
1-36 making an application with a court under Section 33.003.

1-37 SECTION 3. Section 51.095(d), Family Code, is amended to  
1-38 read as follows:

1-39 (d) Subsections (a)(1) and (a)(5) apply to the statement of  
1-40 a child made:

1-41 (1) while the child is in a detention facility or other  
1-42 place of confinement;

1-43 (2) while the child is in the custody of an officer; or

1-44 (3) during or after the interrogation of the child by  
1-45 an officer if the child is in the possession of the Department of  
1-46 Family and Protective [~~and Regulatory~~] Services and is suspected to  
1-47 have engaged in conduct that violates a penal law of this state.

1-48 SECTION 4. Section 81.005(a), Family Code, is amended to  
1-49 read as follows:

1-50 (a) The court may assess reasonable attorney's fees against  
1-51 the party found to have committed family violence or a party against  
1-52 whom an agreed protective order is rendered under Section 85.005 as  
1-53 compensation for the services of a private or prosecuting attorney  
1-54 or an attorney employed by the Department of Family and Protective  
1-55 [~~and Regulatory~~] Services.

1-56 SECTION 5. Section 81.006, Family Code, is amended to read  
1-57 as follows:

1-58 Sec. 81.006. PAYMENT OF ATTORNEY'S FEES. The amount of fees  
1-59 collected under this chapter as compensation for the fees:

1-60 (1) of a private attorney shall be paid to the private  
1-61 attorney who may enforce the order for fees in the attorney's own  
1-62 name;

1-63 (2) of a prosecuting attorney shall be paid to the  
1-64 credit of the county fund from which the salaries of the employees

2-1 of the prosecuting attorney are paid or supplemented; and  
2-2 (3) of an attorney employed by the Department of  
2-3 Family and Protective [~~and Regulatory~~] Services shall be deposited  
2-4 in the general revenue fund to the credit of the Department of  
2-5 Family and Protective [~~and Regulatory~~] Services.

2-6 SECTION 6. Section 81.0075, Family Code, is amended to read  
2-7 as follows:

2-8 Sec. 81.0075. REPRESENTATION BY PROSECUTING ATTORNEY IN  
2-9 CERTAIN SUBSEQUENT ACTIONS. A prosecuting attorney who represents  
2-10 a party in a proceeding under this subtitle is not precluded from  
2-11 representing the Department of Family and Protective [~~and~~  
2-12 ~~Regulatory~~] Services in a subsequent action involving the party.

2-13 SECTION 7. Section 82.002(d), Family Code, is amended to  
2-14 read as follows:

2-15 (d) In addition, an application may be filed for the  
2-16 protection of any person alleged to be a victim of family violence  
2-17 by:

- 2-18 (1) a prosecuting attorney; or
- 2-19 (2) the Department of Family and Protective [~~and~~  
2-20 ~~Regulatory~~] Services.

2-21 SECTION 8. Section 101.002, Family Code, is amended to read  
2-22 as follows:

2-23 Sec. 101.002. AUTHORIZED AGENCY. "Authorized agency" means  
2-24 a public social agency authorized to care for children, including  
2-25 the [~~Texas~~] Department of Family and Protective [~~and Regulatory~~]  
2-26 Services.

2-27 SECTION 9. Section 101.017, Family Code, is amended to read  
2-28 as follows:

2-29 Sec. 101.017. LICENSED CHILD PLACING AGENCY. "Licensed  
2-30 child placing agency" means a person, private association, or  
2-31 corporation approved by the Department of Family and Protective  
2-32 [~~and Regulatory~~] Services to place children for adoption through a  
2-33 license, certification, or other means.

2-34 SECTION 10. Section 102.003(a), Family Code, is amended to  
2-35 read as follows:

2-36 (a) An original suit may be filed at any time by:

- 2-37 (1) a parent of the child;
- 2-38 (2) the child through a representative authorized by  
2-39 the court;
- 2-40 (3) a custodian or person having the right of  
2-41 visitation with or access to the child appointed by an order of a  
2-42 court of another state or country;
- 2-43 (4) a guardian of the person or of the estate of the  
2-44 child;

- 2-45 (5) a governmental entity;
- 2-46 (6) an authorized agency;
- 2-47 (7) a licensed child placing agency;

2-48 (8) a man alleging himself to be the father of a child  
2-49 filing in accordance with Chapter 160, subject to the limitations  
2-50 of that chapter, but not otherwise;

2-51 (9) a person, other than a foster parent, who has had  
2-52 actual care, control, and possession of the child for at least six  
2-53 months ending not more than 90 days preceding the date of the filing  
2-54 of the petition;

2-55 (10) a person designated as the managing conservator  
2-56 in a revoked or unrevoked affidavit of relinquishment under Chapter  
2-57 161 or to whom consent to adoption has been given in writing under  
2-58 Chapter 162;

2-59 (11) a person with whom the child and the child's  
2-60 guardian, managing conservator, or parent have resided for at least  
2-61 six months ending not more than 90 days preceding the date of the  
2-62 filing of the petition if the child's guardian, managing  
2-63 conservator, or parent is deceased at the time of the filing of the  
2-64 petition;

2-65 (12) a person who is the foster parent of a child  
2-66 placed by the Department of Family and Protective [~~and Regulatory~~]  
2-67 Services in the person's home for at least 12 months ending not more  
2-68 than 90 days preceding the date of the filing of the petition;

2-69 (13) a person who is a relative of the child within the

3-1 third degree by consanguinity, as determined by Chapter 573,  
3-2 Government Code, if the child's parents are deceased at the time of  
3-3 the filing of the petition; or

3-4 (14) a person who has been named as a prospective  
3-5 adoptive parent of a child by a pregnant woman or the parent of the  
3-6 child, in a verified written statement to confer standing executed  
3-7 under Section 102.0035, regardless of whether the child has been  
3-8 born.

3-9 SECTION 11. This Act takes effect immediately if it  
3-10 receives a vote of two-thirds of all the members elected to each  
3-11 house, as provided by Section 39, Article III, Texas Constitution.  
3-12 If this Act does not receive the vote necessary for immediate  
3-13 effect, this Act takes effect September 1, 2011.

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