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H.B. No. 1854

A BILL TO BE ENTITLED

AN ACT

relating to certain arrangements to provide care for a child during an investigation of abuse or neglect.

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

SECTION 1. Chapter 264, Family Code, is amended by adding Subchapter L to read as follows:

SUBCHAPTER L. PARENTAL CHILD SAFETY PLACEMENTS

Sec. 264.901. DEFINITIONS. In this subchapter:

(1) "Caregiver" means an individual, other than a child's parent, conservator, or legal guardian, who is related to the child or has a long-standing and significant relationship with the child or the child's family.

(2) "Parental child safety placement" means a temporary out-of-home placement of a child with a caregiver that is made by a parent or other person with whom the child resides in accordance with a written agreement approved by the department that ensures the safety of the child:

(A) during an investigation by the department of alleged abuse or neglect of the child; or

(B) while the parent or other person is receiving services from the department.

(3) "Parental child safety placement agreement" means an agreement between a parent or other person making a parental child safety placement and the caregiver that contains the terms of

1 the placement and is approved by the department.

2 Sec. 264.902. PARENTAL CHILD SAFETY PLACEMENT AGREEMENT.

3 (a) A parental child safety placement agreement must include terms  
4 that clearly state:

5 (1) the respective duties of the person making the  
6 placement and the caregiver, including a plan for how the caregiver  
7 will access necessary medical treatment for the child and the  
8 caregiver's duty to ensure that a school-age child is enrolled in  
9 and attending school;

10 (2) conditions under which the person placing the  
11 child may have access to the child, including how often the person  
12 may visit and the circumstances under which the person's visit may  
13 occur;

14 (3) the duties of the department;

15 (4) the date on which the agreement will terminate  
16 unless terminated sooner or extended to a subsequent date as  
17 provided under department policy; and

18 (5) any other term the department determines necessary  
19 for the safety and welfare of the child.

20 (b) A parental child safety placement agreement must  
21 contain the following statement in boldface type and capital  
22 letters: "YOUR AGREEMENT TO THE PARENTAL CHILD SAFETY PLACEMENT IS  
23 NOT AN ADMISSION OF CHILD ABUSE OR NEGLECT ON YOUR PART AND CANNOT  
24 BE USED AGAINST YOU AS AN ADMISSION OF CHILD ABUSE OR NEGLECT."

25 (c) A parental child safety placement agreement must be in  
26 writing and signed by the person making the placement and the  
27 caregiver.

1       (d) The department must provide a written copy of the  
2 parental child safety placement agreement to the person making the  
3 placement and the caregiver.

4       Sec. 264.903. CAREGIVER EVALUATION. (a) The department  
5 shall develop policies and procedures for evaluating a potential  
6 caregiver's qualifications to care for a child under this  
7 subchapter, including policies and procedures for evaluating:

8           (1) the criminal history of a caregiver;

9           (2) allegations of abuse or neglect against a  
10 caregiver; and

11           (3) a caregiver's home environment and ability to care  
12 for the child.

13       (b) A department caseworker who performs an evaluation of a  
14 caregiver under this section shall document the results of the  
15 evaluation in the department's case records.

16       (c) If, after performing an evaluation of a potential  
17 caregiver, the department determines that it is not in the child's  
18 best interests to be placed with the caregiver, the department  
19 shall notify the person who proposed the caregiver and the proposed  
20 caregiver of the reasons for the department's decision, but may not  
21 disclose the specifics of any criminal history or allegations of  
22 abuse or neglect unless the caregiver agrees to the disclosure.

23       Sec. 264.904. DEPARTMENT PROCEDURES FOR CLOSING CASE. (a)  
24 Before closing a case in which the department has approved a  
25 parental child safety placement, the department must develop a plan  
26 with the person who made the placement and the caregiver for the  
27 safe return of the child to the person who placed the child with the

1 caregiver or to another person legally entitled to possession of  
2 the child, as appropriate.

3 (b) The department may close a case with a child still  
4 living with the caregiver in a parental child safety placement if  
5 the department has determined that the child could safely return to  
6 the parent or person who made the parental child safety placement,  
7 but the parent or other person agrees in writing for the child to  
8 continue to reside with the caregiver.

9 (c) If the department determines that the child is unable to  
10 safely return to the parent or person who made the parental child  
11 safety placement, the department shall determine whether the child  
12 can remain safely in the home of the caregiver or whether the  
13 department must seek legal conservatorship of the child in order to  
14 ensure the child's safety.

15 (d) Before the department may close a case with a child  
16 still living in a parental child safety placement, the department  
17 must:

18 (1) determine and document in the case file that the  
19 child can safely remain in the placement without the department's  
20 supervision;

21 (2) obtain the written agreement of the parent or  
22 person who made the parental child safety placement, if possible;

23 (3) obtain the caregiver's agreement in writing that  
24 the child can continue living in the placement after the department  
25 closes the case; and

26 (4) develop a written plan for the child's care after  
27 the department closes the case.

1       (e) The department is not required to comply with Subsection  
2 (d) if the department has filed suit seeking to be named conservator  
3 of the child under Chapter 262 and been denied conservatorship of  
4 the child.

5       Sec. 264.905. REMOVAL OF CHILD BY DEPARTMENT. This  
6 subchapter does not prevent the department from removing a child at  
7 any time from a person who makes a parental child safety placement  
8 or from a caregiver if removal is determined to be necessary by the  
9 department for the safety and welfare of the child as provided by  
10 Chapter 262.

11       Sec. 264.906. PLACEMENT PREFERENCE DURING CONSERVATORSHIP.  
12 If, while a parental child safety placement agreement is in effect,  
13 the department files suit under Chapter 262 seeking to be named  
14 managing conservator of the child, the department shall give  
15 priority to placing the child with the parental child safety  
16 placement caregiver as long as the placement is safe and available.

17       SECTION 2. This Act takes effect September 1, 2011.