

1-1 By: Rodriguez, Naishtat, Dukes H.B. No. 1854  
1-2 (Senate Sponsor - Uresti)  
1-3 (In the Senate - Received from the House April 26, 2011;  
1-4 April 29, 2011, read first time and referred to Committee on Health  
1-5 and Human Services; May 13, 2011, reported favorably by the  
1-6 following vote: Yeas 7, Nays 0; May 13, 2011, sent to printer.)

1-7 A BILL TO BE ENTITLED  
1-8 AN ACT

1-9 relating to certain arrangements to provide care for a child during  
1-10 an investigation of abuse or neglect.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Chapter 264, Family Code, is amended by adding  
1-13 Subchapter L to read as follows:

1-14 SUBCHAPTER L. PARENTAL CHILD SAFETY PLACEMENTS

1-15 Sec. 264.901. DEFINITIONS. In this subchapter:

1-16 (1) "Caregiver" means an individual, other than a  
1-17 child's parent, conservator, or legal guardian, who is related to  
1-18 the child or has a long-standing and significant relationship with  
1-19 the child or the child's family.

1-20 (2) "Parental child safety placement" means a  
1-21 temporary out-of-home placement of a child with a caregiver that is  
1-22 made by a parent or other person with whom the child resides in  
1-23 accordance with a written agreement approved by the department that  
1-24 ensures the safety of the child:

1-25 (A) during an investigation by the department of  
1-26 alleged abuse or neglect of the child; or

1-27 (B) while the parent or other person is receiving  
1-28 services from the department.

1-29 (3) "Parental child safety placement agreement" means  
1-30 an agreement between a parent or other person making a parental  
1-31 child safety placement and the caregiver that contains the terms of  
1-32 the placement and is approved by the department.

1-33 Sec. 264.902. PARENTAL CHILD SAFETY PLACEMENT AGREEMENT.

1-34 (a) A parental child safety placement agreement must include terms  
1-35 that clearly state:

1-36 (1) the respective duties of the person making the  
1-37 placement and the caregiver, including a plan for how the caregiver  
1-38 will access necessary medical treatment for the child and the  
1-39 caregiver's duty to ensure that a school-age child is enrolled in  
1-40 and attending school;

1-41 (2) conditions under which the person placing the  
1-42 child may have access to the child, including how often the person  
1-43 may visit and the circumstances under which the person's visit may  
1-44 occur;

1-45 (3) the duties of the department;

1-46 (4) the date on which the agreement will terminate  
1-47 unless terminated sooner or extended to a subsequent date as  
1-48 provided under department policy; and

1-49 (5) any other term the department determines necessary  
1-50 for the safety and welfare of the child.

1-51 (b) A parental child safety placement agreement must  
1-52 contain the following statement in boldface type and capital  
1-53 letters: "YOUR AGREEMENT TO THE PARENTAL CHILD SAFETY PLACEMENT IS  
1-54 NOT AN ADMISSION OF CHILD ABUSE OR NEGLECT ON YOUR PART AND CANNOT  
1-55 BE USED AGAINST YOU AS AN ADMISSION OF CHILD ABUSE OR NEGLECT."

1-56 (c) A parental child safety placement agreement must be in  
1-57 writing and signed by the person making the placement and the  
1-58 caregiver.

1-59 (d) The department must provide a written copy of the  
1-60 parental child safety placement agreement to the person making the  
1-61 placement and the caregiver.

1-62 Sec. 264.903. CAREGIVER EVALUATION. (a) The department  
1-63 shall develop policies and procedures for evaluating a potential  
1-64 caregiver's qualifications to care for a child under this

2-1 subchapter, including policies and procedures for evaluating:  
 2-2 (1) the criminal history of a caregiver;  
 2-3 (2) allegations of abuse or neglect against a  
 2-4 caregiver; and  
 2-5 (3) a caregiver's home environment and ability to care  
 2-6 for the child.

2-7 (b) A department caseworker who performs an evaluation of a  
 2-8 caregiver under this section shall document the results of the  
 2-9 evaluation in the department's case records.

2-10 (c) If, after performing an evaluation of a potential  
 2-11 caregiver, the department determines that it is not in the child's  
 2-12 best interests to be placed with the caregiver, the department  
 2-13 shall notify the person who proposed the caregiver and the proposed  
 2-14 caregiver of the reasons for the department's decision, but may not  
 2-15 disclose the specifics of any criminal history or allegations of  
 2-16 abuse or neglect unless the caregiver agrees to the disclosure.

2-17 Sec. 264.904. DEPARTMENT PROCEDURES FOR CLOSING CASE. (a)  
 2-18 Before closing a case in which the department has approved a  
 2-19 parental child safety placement, the department must develop a plan  
 2-20 with the person who made the placement and the caregiver for the  
 2-21 safe return of the child to the person who placed the child with the  
 2-22 caregiver or to another person legally entitled to possession of  
 2-23 the child, as appropriate.

2-24 (b) The department may close a case with a child still  
 2-25 living with the caregiver in a parental child safety placement if  
 2-26 the department has determined that the child could safely return to  
 2-27 the parent or person who made the parental child safety placement,  
 2-28 but the parent or other person agrees in writing for the child to  
 2-29 continue to reside with the caregiver.

2-30 (c) If the department determines that the child is unable to  
 2-31 safely return to the parent or person who made the parental child  
 2-32 safety placement, the department shall determine whether the child  
 2-33 can remain safely in the home of the caregiver or whether the  
 2-34 department must seek legal conservatorship of the child in order to  
 2-35 ensure the child's safety.

2-36 (d) Before the department may close a case with a child  
 2-37 still living in a parental child safety placement, the department  
 2-38 must:

2-39 (1) determine and document in the case file that the  
 2-40 child can safely remain in the placement without the department's  
 2-41 supervision;

2-42 (2) obtain the written agreement of the parent or  
 2-43 person who made the parental child safety placement, if possible;

2-44 (3) obtain the caregiver's agreement in writing that  
 2-45 the child can continue living in the placement after the department  
 2-46 closes the case; and

2-47 (4) develop a written plan for the child's care after  
 2-48 the department closes the case.

2-49 (e) The department is not required to comply with Subsection  
 2-50 (d) if the department has filed suit seeking to be named conservator  
 2-51 of the child under Chapter 262 and been denied conservatorship of  
 2-52 the child.

2-53 Sec. 264.905. REMOVAL OF CHILD BY DEPARTMENT. This  
 2-54 subchapter does not prevent the department from removing a child at  
 2-55 any time from a person who makes a parental child safety placement  
 2-56 or from a caregiver if removal is determined to be necessary by the  
 2-57 department for the safety and welfare of the child as provided by  
 2-58 Chapter 262.

2-59 Sec. 264.906. PLACEMENT PREFERENCE DURING CONSERVATORSHIP.  
 2-60 If, while a parental child safety placement agreement is in effect,  
 2-61 the department files suit under Chapter 262 seeking to be named  
 2-62 managing conservator of the child, the department shall give  
 2-63 priority to placing the child with the parental child safety  
 2-64 placement caregiver as long as the placement is safe and available.

2-65 SECTION 2. This Act takes effect September 1, 2011.

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