

By: Harris

S.B. No. 788

A BILL TO BE ENTITLED

AN ACT

relating to certain statutory references to the Department of Family and Protective Services.

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

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

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

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

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

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

(4) a member of the clergy; or

(5) another appropriate person selected by the court.

SECTION 2. Section 33.008, Family Code, is amended to read as follows:

Sec. 33.008. PHYSICIAN'S DUTY TO REPORT ABUSE OF A MINOR; INVESTIGATION AND ASSISTANCE. (a) A physician who has reason to believe that a minor has been or may be physically or sexually abused by a person responsible for the minor's care, custody, or welfare, as that term is defined by Section 261.001, shall immediately report the suspected abuse to the Department of Family and Protective [~~and Regulatory~~] Services and shall refer the minor

1 to the department for services or intervention that may be in the
2 best interest of the minor.

3 (b) The Department of Family and Protective [~~and~~
4 ~~Regulatory~~] Services shall investigate suspected abuse reported
5 under this section and, if appropriate, shall assist the minor in
6 making an application with a court under Section 33.003.

7 SECTION 3. Section 51.095(d), Family Code, is amended to
8 read as follows:

9 (d) Subsections (a)(1) and (a)(5) apply to the statement of
10 a child made:

11 (1) while the child is in a detention facility or other
12 place of confinement;

13 (2) while the child is in the custody of an officer; or

14 (3) during or after the interrogation of the child by
15 an officer if the child is in the possession of the Department of
16 Family and Protective [~~and Regulatory~~] Services and is suspected to
17 have engaged in conduct that violates a penal law of this state.

18 SECTION 4. Section 81.005(a), Family Code, is amended to
19 read as follows:

20 (a) The court may assess reasonable attorney's fees against
21 the party found to have committed family violence or a party against
22 whom an agreed protective order is rendered under Section 85.005 as
23 compensation for the services of a private or prosecuting attorney
24 or an attorney employed by the Department of Family and Protective
25 [~~and Regulatory~~] Services.

26 SECTION 5. Section 81.006, Family Code, is amended to read
27 as follows:

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

3 (1) of a private attorney shall be paid to the private
4 attorney who may enforce the order for fees in the attorney's own
5 name;

6 (2) of a prosecuting attorney shall be paid to the
7 credit of the county fund from which the salaries of the employees
8 of the prosecuting attorney are paid or supplemented; and

9 (3) of an attorney employed by the Department of
10 Family and Protective [~~and Regulatory~~] Services shall be deposited
11 in the general revenue fund to the credit of the Department of
12 Family and Protective [~~and Regulatory~~] Services.

13 SECTION 6. Section 81.0075, Family Code, is amended to read
14 as follows:

15 Sec. 81.0075. REPRESENTATION BY PROSECUTING ATTORNEY IN
16 CERTAIN SUBSEQUENT ACTIONS. A prosecuting attorney who represents
17 a party in a proceeding under this subtitle is not precluded from
18 representing the Department of Family and Protective [~~and~~
19 ~~Regulatory~~] Services in a subsequent action involving the party.

20 SECTION 7. Section 82.002(d), Family Code, is amended to
21 read as follows:

22 (d) In addition, an application may be filed for the
23 protection of any person alleged to be a victim of family violence
24 by:

- 25 (1) a prosecuting attorney; or
26 (2) the Department of Family and Protective [~~and~~
27 ~~Regulatory~~] Services.

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

3 Sec. 101.002. AUTHORIZED AGENCY. "Authorized agency" means
4 a public social agency authorized to care for children, including
5 the [~~Texas~~] Department of Family and Protective [~~and Regulatory~~]
6 Services.

7 SECTION 9. Section 101.017, Family Code, is amended to read
8 as follows:

9 Sec. 101.017. LICENSED CHILD PLACING AGENCY. "Licensed
10 child placing agency" means a person, private association, or
11 corporation approved by the Department of Family and Protective
12 [~~and Regulatory~~] Services to place children for adoption through a
13 license, certification, or other means.

14 SECTION 10. Section 102.003(a), Family Code, is amended to
15 read as follows:

- 16 (a) An original suit may be filed at any time by:
- 17 (1) a parent of the child;
 - 18 (2) the child through a representative authorized by
19 the court;
 - 20 (3) a custodian or person having the right of
21 visitation with or access to the child appointed by an order of a
22 court of another state or country;
 - 23 (4) a guardian of the person or of the estate of the
24 child;
 - 25 (5) a governmental entity;
 - 26 (6) an authorized agency;
 - 27 (7) a licensed child placing agency;

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

4 (9) a person, other than a foster parent, who has had
5 actual care, control, and possession of the child for at least six
6 months ending not more than 90 days preceding the date of the filing
7 of the petition;

8 (10) a person designated as the managing conservator
9 in a revoked or unrevoked affidavit of relinquishment under Chapter
10 161 or to whom consent to adoption has been given in writing under
11 Chapter 162;

12 (11) a person with whom the child and the child's
13 guardian, managing conservator, or parent have resided for at least
14 six months ending not more than 90 days preceding the date of the
15 filing of the petition if the child's guardian, managing
16 conservator, or parent is deceased at the time of the filing of the
17 petition;

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

22 (13) a person who is a relative of the child within the
23 third degree by consanguinity, as determined by Chapter 573,
24 Government Code, if the child's parents are deceased at the time of
25 the filing of the petition; or

26 (14) a person who has been named as a prospective
27 adoptive parent of a child by a pregnant woman or the parent of the

1 child, in a verified written statement to confer standing executed
2 under Section 102.0035, regardless of whether the child has been
3 born.

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