



17 MAY -7 PM 12:54
HOUSE OF REPRESENTATIVES

FLOOR AMENDMENT NO. _____

BY: _____

BURROWS

1 Amend C.S.H.B. No. 7 (house committee report) as follows:

2 (1) On page 8, line 13, strike "satisfy a person of ordinary
3 prudence and caution" and substitute "show by clear and convincing
4 evidence [~~satisfy a person of ordinary prudence and caution~~]".

5 (2) On page 9, line 19, between "(a-5)" and "to" insert "and
6 amending Subsections (b) and (c)".

7 (3) On page 9, after line 27, insert the following:

8 (b) At the conclusion of the full adversary hearing, the
9 court shall order the return of the child to the parent, managing
10 conservator, possessory conservator, guardian, caretaker, or
11 custodian entitled to possession unless the court finds by clear
12 and convincing [~~sufficient~~] evidence [~~to satisfy a person of~~
13 ~~ordinary prudence and caution~~] that:

14 (1) there was a danger to the physical health or safety
15 of the child, including a danger that the child would be a victim of
16 trafficking under Section 20A.02 or 20A.03, Penal Code, which was
17 caused by an act or failure to act of the person entitled to
18 possession and for the child to remain in the home is contrary to
19 the welfare of the child;

20 (2) the urgent need for protection required the
21 immediate removal of the child and reasonable efforts, consistent
22 with the circumstances and providing for the safety of the child,
23 were made to eliminate or prevent the child's removal; and

24 (3) reasonable efforts have been made to enable the
25 child to return home, but there is a substantial risk of a
26 continuing danger if the child is returned home.

27 (c) If the court finds by clear and convincing [~~sufficient~~]
28 evidence [~~to satisfy a person of ordinary prudence and caution~~]
29 that there is a continuing danger to the physical health or safety

1 of the child and for the child to remain in the home is contrary to
2 the welfare of the child, the court shall issue an appropriate
3 temporary order under Chapter 105. The court shall require each
4 parent, alleged father, or relative of the child before the court to
5 complete the proposed child placement resources form provided under
6 Section 261.307 and file the form with the court, if the form has
7 not been previously filed with the court, and provide the
8 Department of Family and Protective Services with information
9 necessary to locate any other absent parent, alleged father, or
10 relative of the child. The court shall inform each parent, alleged
11 father, or relative of the child before the court that the person's
12 failure to submit the proposed child placement resources form will
13 not delay any court proceedings relating to the child. The court
14 shall inform each parent in open court that parental and custodial
15 rights and duties may be subject to restriction or to termination
16 unless the parent or parents are willing and able to provide the
17 child with a safe environment. If the court finds that the child
18 requires protection from family violence by a member of the child's
19 family or household, the court shall render a protective order
20 under Title 4 for the child. In this subsection, "family violence"
21 has the meaning assigned by Section 71.004.

22 (4) Add the following appropriately numbered SECTIONS to
23 the bill and renumber subsequent SECTIONS of the bill accordingly:

24 SECTION _____. Section 262.101, Family Code, is amended to
25 read as follows:

26 Sec. 262.101. FILING PETITION BEFORE TAKING POSSESSION OF
27 CHILD. An original suit filed by a governmental entity that
28 requests permission to take possession of a child without prior
29 notice and a hearing must be supported by an affidavit sworn to by a
30 person with personal knowledge and stating facts sufficient to show
31 by clear and convincing evidence ~~[satisfy a person of ordinary~~

1 ~~prudence and caution~~] that:

2 (1) there is an immediate danger to the physical
3 health or safety of the child [~~or the child has been a victim of~~
4 ~~neglect or sexual abuse~~] and that continuation in the home would be
5 contrary to the child's welfare;

6 (2) there is no time, consistent with the physical
7 health or safety of the child, for a full adversary hearing under
8 Subchapter C; and

9 (3) reasonable efforts, consistent with the
10 circumstances and providing for the safety of the child, were made
11 to prevent or eliminate the need for the removal of the child.

12 SECTION _____. Section 262.102(a), Family Code, is amended
13 to read as follows:

14 (a) Before a court may, without prior notice and a hearing,
15 issue a temporary order for the conservatorship of a child under
16 Section 105.001(a)(1) or a temporary restraining order or
17 attachment of a child authorizing a governmental entity to take
18 possession of a child in a suit brought by a governmental entity,
19 the court must find by clear and convincing evidence that:

20 (1) there is an immediate danger to the physical
21 health or safety of the child [~~or the child has been a victim of~~
22 ~~neglect or sexual abuse~~] and that continuation in the home would be
23 contrary to the child's welfare;

24 (2) there is no time, consistent with the physical
25 health or safety of the child and the nature of the emergency, for a
26 full adversary hearing under Subchapter C; and

27 (3) reasonable efforts, consistent with the
28 circumstances and providing for the safety of the child, were made
29 to prevent or eliminate the need for removal of the child.

30 SECTION _____. Section 262.104, Family Code, is amended to
31 read as follows:

1 Sec. 262.104. TAKING POSSESSION OF A CHILD IN EMERGENCY
2 WITHOUT A COURT ORDER. (a) If there is no time to obtain a
3 temporary order, temporary restraining order, or attachment under
4 Section 262.102(a) before taking possession of a child consistent
5 with the health and safety of that child, an authorized
6 representative of the Department of Family and Protective Services,
7 a law enforcement officer, or a juvenile probation officer may take
8 possession of a child without a court order under the following
9 conditions, only:

10 (1) on personal knowledge of facts that would show by
11 clear and convincing evidence [~~lead a person of ordinary prudence~~
12 ~~and caution to believe~~] that there is an immediate danger to the
13 physical health or safety of the child;

14 (2) on information furnished by another that has been
15 corroborated by personal knowledge of facts and all of which taken
16 together would show by clear and convincing evidence [~~lead a person~~
17 ~~of ordinary prudence and caution to believe~~] that there is an
18 immediate danger to the physical health or safety of the child;

19 (3) on personal knowledge of facts that would show by
20 clear and convincing evidence [~~lead a person of ordinary prudence~~
21 ~~and caution to believe~~] that the child has been the victim of sexual
22 abuse or of trafficking under Section 20A.02 or 20A.03, Penal Code;

23 (4) on information furnished by another that has been
24 corroborated by personal knowledge of facts and all of which taken
25 together would show by clear and convincing evidence [~~lead a person~~
26 ~~of ordinary prudence and caution to believe~~] that the child has been
27 the victim of sexual abuse or of trafficking under Section 20A.02 or
28 20A.03, Penal Code; or

29 (5) on information furnished by another that has been
30 corroborated by personal knowledge of facts and all of which taken
31 together would show by clear and convincing evidence [~~lead a person~~

1 ~~of ordinary prudence and caution to believe~~] that the parent or
2 person who has possession of the child is currently using a
3 controlled substance as defined by Chapter 481, Health and Safety
4 Code, and the use constitutes an immediate danger to the physical
5 health or safety of the child.

6 (b) An authorized representative of the Department of
7 Family and Protective Services, a law enforcement officer, or a
8 juvenile probation officer may take possession of a child under
9 Subsection (a) on personal knowledge or information furnished by
10 another, that has been corroborated by personal knowledge, that
11 would show by clear and convincing evidence ~~[lead a person of~~
12 ~~ordinary prudence and caution to believe]~~ that the parent or person
13 who has possession of the child has permitted the child to remain on
14 premises used for the manufacture of methamphetamine.

15 SECTION _____. Section 262.205(b), Family Code, is amended
16 to read as follows:

17 (b) After the hearing, the court may grant the request to
18 remove the child from the parent, managing conservator, possessory
19 conservator, guardian, caretaker, or custodian entitled to
20 possession of the child if the court finds by clear and convincing
21 ~~[sufficient]~~ evidence ~~[to satisfy a person of ordinary prudence and~~
22 ~~caution]~~ that:

23 (1) reasonable efforts have been made to prevent or
24 eliminate the need to remove the child from the child's home; and

25 (2) allowing the child to remain in the home would be
26 contrary to the child's welfare.