

By: Wu

H.B. No. 7

A BILL TO BE ENTITLED

AN ACT

relating to child protective services suits by the Department of Family and Protective Services.

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

SECTION 1. Subchapter A, Chapter 262, Family Code, is amended by adding Section 262.0022 to read as follows:

Sec. 262.0022. REVIEW OF PLACEMENT; FINDINGS. At each hearing under this chapter, the court shall review the placement of each child in the temporary or permanent managing conservatorship of the department who is not placed with a relative caregiver or designated caregiver as defined by Section 264.751. The court shall make a finding as to whether the department has made reasonable efforts to place the child with a relative or other designated caregiver.

SECTION 2. Subchapter A, Chapter 262, Family Code, is amended by adding Sections 262.013 and 262.014 to read as follows:

Sec. 262.013. VOLUNTARY TEMPORARY MANAGING CONSERVATORSHIP. In a suit affecting the parent-child relationship, a person's voluntary agreement to temporarily place the person's child in the managing conservatorship of the department is inadmissible in a court hearing under this subtitle as evidence that the person abused or neglected the child.

Sec. 262.014. DISCLOSURE OF CERTAIN EVIDENCE. On the request of the attorney for a parent who is a party in a suit

1 affecting the parent-child relationship filed under this chapter,
2 or the attorney ad litem for the parent's child, the Department of
3 Family and Protective Services shall, before the full adversary
4 hearing, provide:

5 (1) the name of any person, excluding a department
6 employee, who the department will call as is a witness to any of the
7 allegations contained in the petition filed by the department;

8 (2) a copy of any offense report relating to the
9 allegations contained in the petition filed by the department; and

10 (3) a copy of any photograph, video, or recording that
11 constitutes or contains evidence that is material to the
12 allegations contained in the petition filed by the department.

13 SECTION 3. Section 262.201, Family Code, is amended by
14 amending Subsection (c) and adding Subsection (c-1) to read as
15 follows:

16 (c) If the court finds sufficient evidence to satisfy a
17 person of ordinary prudence and caution that there is a continuing
18 danger to the physical health or safety of the child and for the
19 child to remain in the home is contrary to the welfare of the child,
20 the court shall:

21 (1) issue an appropriate temporary order under Chapter
22 105;

23 (2) [~~The court shall~~] require each parent, alleged
24 father, or relative of the child before the court to:

25 (A) complete the proposed child placement
26 resources form provided under Section 261.307;

27 (B) [~~and~~] file the form with the court, if the

1 form has not been previously filed with the court;]~~[7]~~ and

2 (C) provide the Department of Family and
3 Protective Services with information necessary to locate any other
4 absent parent, alleged father, or relative of the child;]

5 (3) [~~The court shall~~] inform each parent, alleged
6 father, or relative of the child before the court that the person's
7 failure to submit the proposed child placement resources form will
8 not delay any court proceedings relating to the child;]

9 (4) [~~The court shall~~] inform each parent in open
10 court that parental and custodial rights and duties may be subject
11 to restriction or to termination unless the parent or parents are
12 willing and able to provide the child with a safe environment;] and

13 (5) unless the court has waived the requirement of a
14 service plan on the court's finding of aggravated circumstances
15 under Section 262.2015, after reviewing the basic service plan
16 required under Section 262.206 and making any change or
17 modification the court considers necessary, incorporate the plan
18 into the order of the court and render any additional appropriate
19 order to implement or require compliance with the plan.

20 (c-1) If the court finds that the child requires protection
21 from family violence by a member of the child's family or household,
22 the court shall render a protective order under Title 4 for the
23 child. In this subsection, "family violence" has the meaning
24 assigned by Section 71.004.

25 SECTION 4. Subchapter C, Chapter 262, Family Code, is
26 amended by adding Section 262.206 to read as follows:

27 Sec. 262.206. BASIC SERVICE PLAN. (a) The Department of

1 Family and Protective Services shall develop a statewide uniform
2 basic family service plan to be filed with the court at each full
3 adversary hearing held under Section 262.201.

4 (b) The basic service plan must:

5 (1) be in writing;

6 (2) specify the primary permanency goal for the child;

7 (3) state the steps necessary to:

8 (A) return the child to the child's home if the
9 child is placed in foster care;

10 (B) enable the child to remain in the child's
11 home with the assistance of a service plan if the child's placement
12 is in the child's home under the department's supervision; or

13 (C) otherwise provide a safe placement for the
14 child;

15 (4) state the basic actions the child's parents must
16 take to achieve the plan goal during the period of the service plan
17 and the assistance to be provided to the parents by the department
18 or other agency toward meeting that goal;

19 (5) state any basic skill or knowledge that the child's
20 parents must acquire or learn and any basic behavioral change the
21 parents must exhibit to achieve the plan goal;

22 (6) state the initial actions the child's parents must
23 take to ensure that the child attends school and maintains or
24 improves the child's academic compliance;

25 (7) prescribe any other basic condition that the
26 department determines necessary for the success of the service
27 plan; and

1 (8) be printed in English, Spanish, and any other
2 language the department considers appropriate.

3 (c) The basic service plan must include the following
4 statement:

5 TO THE PARENT: THIS IS A VERY IMPORTANT DOCUMENT. THE PURPOSE
6 OF THIS PLAN IS TO HELP YOU PROVIDE YOUR CHILD WITH A SAFE
7 ENVIRONMENT WITHIN THE REASONABLE PERIOD SPECIFIED IN THE PLAN. AT
8 THE INITIAL COURT HEARING, A JUDGE WILL REVIEW THE PLAN, MODIFY THE
9 PLAN IF NECESSARY, AND REQUIRE COMPLIANCE WITH THE PLAN. IF YOU ARE
10 UNWILLING OR UNABLE TO PROVIDE YOUR CHILD WITH A SAFE ENVIRONMENT,
11 YOUR PARENTAL AND CUSTODIAL DUTIES AND RIGHTS MAY BE RESTRICTED OR
12 TERMINATED OR YOUR CHILD MAY NOT BE RETURNED TO YOU. AT THE INITIAL
13 COURT HEARING, A JUDGE WILL REVIEW THIS BASIC SERVICE PLAN. A
14 SUBSEQUENT COURT STATUS HEARING MAY BE SCHEDULED AT WHICH A JUDGE
15 MAY REVIEW AN INDIVIDUALIZED SERVICE PLAN FOR YOUR CHILD AND
16 REQUIRE COMPLIANCE WITH THE INDIVIDUALIZED PLAN.

17 (d) The basic service plan may not include an allegation of
18 abuse or neglect of the child or a restatement of the facts of the
19 case. An allegation of abuse or neglect or a restatement of the
20 facts of the case in a basic service plan is inadmissible in court
21 as evidence.

22 (e) Not later than the fifth business day after the date the
23 full adversary hearing is held under Section [262.201](#), the
24 department shall:

25 (1) make all referrals necessary for the parents to
26 comply with the parents' responsibilities under the basic service
27 plan; and

1 (2) provide to the parents an accurate list of
2 approved providers who provide those services in the department
3 region in which the parent resides.

4 SECTION 5. Section [263.002](#), Family Code, is amended to read
5 as follows:

6 Sec. 263.002. REVIEW OF PLACEMENTS BY COURT; FINDINGS. (a)
7 In a suit affecting the parent-child relationship in which the
8 department has been appointed by the court or designated in an
9 affidavit of relinquishment of parental rights as the temporary or
10 permanent managing conservator of a child, the court shall hold a
11 hearing to review:

12 (1) the conservatorship appointment and substitute
13 care; and

14 (2) for a child committed to the Texas Juvenile
15 Justice Department, the child's commitment in the Texas Juvenile
16 Justice Department or release under supervision by the Texas
17 Juvenile Justice Department.

18 (b) At each hearing under this chapter, the court shall
19 review the placement of each child in the temporary or permanent
20 managing conservatorship of the department who is not placed with a
21 relative caregiver or designated caregiver as defined by Section
22 [264.751](#). The court shall make a finding as to whether the
23 department is able to place the child with a relative or other
24 designated caregiver and state the evidence that supports its
25 finding.

26 SECTION 6. The heading to Subchapter B, Chapter [263](#), Family
27 Code, is amended to read as follows:

1 SUBCHAPTER B. INDIVIDUALIZED SERVICE PLAN AND VISITATION PLAN

2 SECTION 7. Sections 263.101, 263.102, and 263.103, Family
3 Code, are amended to read as follows:

4 Sec. 263.101. DEPARTMENT TO FILE INDIVIDUALIZED SERVICE
5 PLAN. Except as provided by Section 262.2015, [~~not later than the~~
6 ~~45th day~~] after the date the court renders a temporary order
7 appointing the department as temporary managing conservator of a
8 child under Chapter 262 and before the date of the status hearing
9 required under Subchapter C, the department may [~~shall~~] file with
10 the court an individualized [a] service plan.

11 Sec. 263.102. INDIVIDUALIZED SERVICE PLAN; CONTENTS. (a)
12 The individualized service plan must:

- 13 (1) be specific;
- 14 (2) be in writing in a language that the parents
15 understand, or made otherwise available;
- 16 (3) be prepared by the department in conference with
17 the child's parents;
- 18 (4) state appropriate deadlines;
- 19 (5) specify the primary permanency goal and at least
20 one alternative permanency goal;
- 21 (6) state steps that are necessary to:
 - 22 (A) return the child to the child's home if the
23 placement is in foster care;
 - 24 (B) enable the child to remain in the child's
25 home with the assistance of a service plan if the placement is in
26 the home under the department's supervision; or
 - 27 (C) otherwise provide a permanent safe placement

1 for the child;

2 (7) state the actions and responsibilities that are
3 necessary for the child's parents to take to achieve the plan goal
4 during the period of the service plan and the assistance to be
5 provided to the parents by the department or other agency toward
6 meeting that goal;

7 (8) state any specific skills or knowledge that the
8 child's parents must acquire or learn, as well as any behavioral
9 changes the parents must exhibit, to achieve the plan goal;

10 (9) state the actions and responsibilities that are
11 necessary for the child's parents to take to ensure that the child
12 attends school and maintains or improves the child's academic
13 compliance;

14 (10) state the name of the person with the department
15 whom the child's parents may contact for information relating to
16 the child if other than the person preparing the plan; and

17 (11) prescribe any other term or condition that the
18 department determines to be necessary to the service plan's
19 success.

20 (b) The individualized service plan must [~~shall~~] include
21 the following statement:

22 TO THE PARENT: THIS IS A VERY IMPORTANT DOCUMENT. THE [~~ITS~~]
23 PURPOSE OF THIS PLAN IS TO HELP YOU PROVIDE YOUR CHILD WITH A SAFE
24 ENVIRONMENT WITHIN THE REASONABLE PERIOD SPECIFIED IN THE PLAN. IF
25 YOU ARE UNWILLING OR UNABLE TO PROVIDE YOUR CHILD WITH A SAFE
26 ENVIRONMENT, YOUR PARENTAL AND CUSTODIAL DUTIES AND RIGHTS MAY BE
27 RESTRICTED OR TERMINATED OR YOUR CHILD MAY NOT BE RETURNED TO YOU.

1 AT [~~THERE WILL BE~~] A COURT HEARING, [AT WHICH] A JUDGE WILL REVIEW
2 THIS INDIVIDUALIZED SERVICE PLAN, MODIFY THE PLAN IF NECESSARY,
3 INCORPORATE THE PLAN INTO THE COURT'S ORDER, AND REQUIRE COMPLIANCE
4 WITH THE PLAN.

5 (c) The individualized service plan may not include an
6 allegation of abuse or neglect of the child or a restatement of the
7 facts of the case. An allegation of abuse or neglect or a
8 restatement of the facts of the case in an individualized service
9 plan is inadmissible in the court as evidence.

10 (c-1) The department shall provide with the individualized
11 service plan a list of approved providers in the department service
12 area in which the parent resides of the services necessary for the
13 parents to comply with the plan. The department shall maintain the
14 accuracy of the provider list.

15 (d) The department or other authorized entity must write the
16 individualized service plan in a manner that is clear and
17 understandable to the parent in order to facilitate the parent's
18 ability to follow the requirements of the service plan.

19 (e) Regardless of whether the goal stated in a child's
20 individualized service plan as required under Subsection (a)(5) is
21 to return the child to the child's parents or to terminate parental
22 rights and place the child for adoption, the department shall
23 concurrently provide to the child and the child's family, as
24 applicable:

25 (1) time-limited family reunification services as
26 defined by 42 U.S.C. Section 629a for a period not to exceed the
27 period within which the court must render a final order in or

1 dismiss the suit affecting the parent-child relationship with
2 respect to the child as provided by Subchapter E; and

3 (2) adoption promotion and support services as defined
4 by 42 U.S.C. Section 629a.

5 (f) The department shall consult with relevant
6 professionals to determine the skills or knowledge that the parents
7 of a child under two years of age should learn or acquire to provide
8 a safe placement for the child. The department shall incorporate
9 those skills and abilities into the department's individualized
10 service plans, as appropriate.

11 Sec. 263.103. INDIVIDUALIZED [~~ORIGINAL~~] SERVICE PLAN:
12 SIGNING AND TAKING EFFECT. (a) The individualized [~~original~~]
13 service plan shall be developed jointly by the child's parents and a
14 representative of the department. The department representative
15 shall inform [~~, including informing~~] the parents of their rights in
16 connection with the service plan process. If a parent is not able
17 or willing to participate in the development of the service plan, it
18 should be so noted in the plan.

19 (a-1) Before the individualized [~~original~~] service plan is
20 signed, the child's parents and the representative of the
21 department shall discuss each term and condition of the plan.

22 (b) The child's parents and the person preparing the
23 individualized [~~original~~] service plan shall sign the plan, and the
24 department shall give each parent a copy of the service plan.

25 (c) If the department determines that the child's parents
26 are unable or unwilling to participate in the development of the
27 individualized [~~original~~] service plan or sign the plan, the

1 department may file the plan without the parents' signatures.

2 (d) The individualized [~~original~~] service plan takes effect
3 when:

4 (1) the child's parents and the appropriate
5 representative of the department sign the plan; or

6 (2) the court issues an order giving effect to the plan
7 without the parents' signatures.

8 (e) The individualized [~~original~~] service plan is in effect
9 until amended by the court or as provided under Section 263.104.

10 SECTION 8. Section 263.105(c), Family Code, is amended to
11 read as follows:

12 (c) The court may modify an individualized [~~original~~] or
13 amended service plan at any time.

14 SECTION 9. Section 263.106, Family Code, is amended to read
15 as follows:

16 Sec. 263.106. COURT IMPLEMENTATION OF SERVICE PLAN. After
17 reviewing the individualized [~~original~~] or any amended service plan
18 and making any changes or modifications it deems necessary, the
19 court shall incorporate the individualized [~~original~~] and any
20 amended service plan into the orders of the court and may render
21 additional appropriate orders to implement or require compliance
22 with the [~~an original or amended service~~] plan.

23 SECTION 10. Section 263.403(a), Family Code, is amended to
24 read as follows:

25 (a) Notwithstanding Section 263.401, the court may retain
26 jurisdiction and not dismiss the suit or render a final order as
27 required by that section if the court renders a temporary order

1 that:

2 (1) finds that retaining jurisdiction under this
3 section is in the best interest of the child;

4 (2) orders the department to:

5 (A) return the child to the child's parent; or

6 (B) transition the child, according to a schedule
7 determined by the department, from substitute care to the parent
8 while the parent completes the remaining requirements imposed under
9 a service plan and specified in the temporary order that are
10 necessary for the child's return;

11 (3) orders the department to continue to serve as
12 temporary managing conservator of the child; and

13 (4) orders the department to monitor the child's
14 placement to ensure that the child is in a safe environment.

15 SECTION 11. Sections 263.405(a) and (b), Family Code, are
16 amended to read as follows:

17 (a) An appeal of a final order rendered under this
18 subchapter is governed by this subchapter and the procedures for
19 accelerated appeals in civil cases under the Texas Rules of
20 Appellate Procedure. The appellate court shall render its final
21 order or judgment with the least possible delay.

22 (b) A final order rendered under this subchapter must
23 contain the following prominently displayed statement in boldfaced
24 type, in capital letters, or underlined: "A PARTY AFFECTED BY THIS
25 ORDER HAS THE RIGHT TO APPEAL. AN APPEAL IN A SUIT IN WHICH
26 TERMINATION OF THE PARENT-CHILD RELATIONSHIP IS SOUGHT IS GOVERNED
27 BY SUBCHAPTER E, CHAPTER 263, FAMILY CODE, AND THE PROCEDURES FOR

1 ACCELERATED APPEALS IN CIVIL CASES UNDER THE TEXAS RULES OF
2 APPELLATE PROCEDURE. FAILURE TO FOLLOW SUBCHAPTER E, CHAPTER 263,
3 FAMILY CODE, AND THE TEXAS RULES OF APPELLATE PROCEDURE FOR
4 ACCELERATED APPEALS MAY RESULT IN THE DISMISSAL OF THE APPEAL."

5 SECTION 12. Subchapter E, Chapter 263, Family Code, is
6 amended by adding Sections 263.4055 and 263.4056 to read as
7 follows:

8 Sec. 263.4055. MOTION FOR NEW TRIAL ON FINAL ORDER; TIME FOR
9 FILING AN APPEAL. (a) A motion for a new trial following a final
10 order rendered under this subchapter must be filed not later than
11 the fifth day after the date the final order is filed with the
12 clerk.

13 (b) The court shall hold a hearing on the motion for a new
14 trial not later than the 14th day after the date the motion is
15 filed. Unless the court rules on the motion for a new trial within
16 the period provided by this subsection, the motion is denied by
17 operation of law.

18 (c) If a motion for a new trial is filed, an appeal of a
19 final order under Section 263.405 must be filed not later than the
20 20th day after the date the court rules on the motion for a new trial
21 or the date the motion is denied by operation of law.

22 (d) To the extent that this section conflicts with the Texas
23 Rules of Civil Procedure or the Texas Rules of Appellate Procedure,
24 this section controls. Notwithstanding Section 22.004, Government
25 Code, this section may not be modified or repealed by a rule adopted
26 by the supreme court.

27 Sec. 263.4056. DEADLINE FOR FILING COURT REPORTER'S RECORD

1 IN APPELLATE COURT. (a) In an appeal of a final order rendered
2 under this subchapter, the court reporter for the court that
3 rendered the order shall prepare and submit the reporter's record
4 of the trial to the appellate court not later than the 20th day
5 after the date the notice of appeal is filed with the court.

6 (b) On a showing of good cause, the appellate court may
7 extend the deadline for submitting the reporter's record. If the
8 court grants an extension under this subsection, the reporter's
9 record must be filed with the appellate court not later than the
10 40th day after the date the notice of appeal is filed with the
11 court.

12 (c) To the extent that this section conflicts with the Texas
13 Rules of Appellate Procedure, this section controls.
14 Notwithstanding Section 22.004, Government Code, this section may
15 not be modified or repealed by a rule adopted by the supreme court.

16 SECTION 13. Section 264.018, Family Code, is amended by
17 amending Subsection (f) and adding Subsections (f-1) and (f-2) to
18 read as follows:

19 (f) Except as provided by Subsection (f-1) or (f-2), as [As]
20 soon as possible but not later than the 10th day after the date the
21 department becomes aware of a significant event affecting a child
22 in the conservatorship of the department, the department shall
23 provide notice of the significant event to:

- 24 (1) the child's parent;
- 25 (2) an attorney ad litem appointed for the child under
26 Chapter 107;
- 27 (3) a guardian ad litem appointed for the child under

1 Chapter 107;

2 (4) a volunteer advocate appointed for the child under
3 Chapter 107;

4 (5) the licensed administrator of the child-placing
5 agency responsible for placing the child or the licensed
6 administrator's designee;

7 (6) a foster parent, prospective adoptive parent,
8 relative of the child providing care to the child, or director of
9 the group home or general residential operation where the child is
10 residing; and

11 (7) any other person determined by a court to have an
12 interest in the child's welfare.

13 (f-1) As soon as possible but not later than the fifth day
14 after the date a child-placing agency notifies the department of
15 the agency's intent to change the placement of a child in the
16 conservatorship of the department, the department shall give notice
17 of the impending placement change and the reason given for the
18 placement change to:

19 (1) the child's parent;

20 (2) an attorney ad litem appointed for the child under
21 Chapter 107;

22 (3) a guardian ad litem appointed for the child under
23 Chapter 107;

24 (4) a volunteer advocate appointed for the child under
25 Chapter 107;

26 (5) a foster parent, prospective adoptive parent,
27 relative of the child providing care to the child, or director of

1 the group home or general residential operation where the child is
2 residing; and

3 (6) any other person determined by a court to have an
4 interest in the child's welfare.

5 (f-2) As soon as possible but not later than the fifth day
6 after the date a foster parent requests the removal of a child in
7 the conservatorship of the department from the foster home, the
8 department shall give notice of the impending placement change to:

9 (1) the child's parent;

10 (2) an attorney ad litem appointed for the child under
11 Chapter 107;

12 (3) a guardian ad litem appointed for the child under
13 Chapter 107;

14 (4) a volunteer advocate appointed for the child under
15 Chapter 107;

16 (5) the licensed administrator of the child-placing
17 agency responsible for placing the child or the licensed
18 administrator's designee; and

19 (6) any other person determined by a court to have an
20 interest in the child's welfare.

21 SECTION 14. (a) The Department of Family and Protective
22 Services shall develop the statewide uniform basic service plan as
23 required by Section 262.206, Family Code, as added by this Act, not
24 later than December 1, 2017.

25 (b) The changes in law made by this Act apply only to a
26 service plan filed for a full adversary hearing held under Section
27 262.201, Family Code, or a status hearing held under Chapter 263,

1 Family Code, on or after January 1, 2018. A hearing held before
2 that date is governed by the law in effect immediately before the
3 effective date of this Act, and that law is continued in effect for
4 that purpose.

5 (c) Sections 263.405(a) and (b), Family Code, as amended by
6 this Act, apply only to a final order rendered on or after the
7 effective date of this Act. An order rendered before that date is
8 governed by the law in effect immediately before the effective date
9 of this Act, and that law is continued in effect for that purpose.

10 (d) Sections 263.4055 and 263.4056, Family Code, as added by
11 this Act, apply only to a motion for a new trial following a final
12 order or an appeal of a final order rendered on or after the
13 effective date of this Act. A motion for a new trial following a
14 final order or an appeal of a final order rendered before the
15 effective date of this Act is governed by the law in effect
16 immediately before the effective date of this Act, and that law is
17 continued in effect for that purpose.

18 (e) The changes in law made by this Act apply only to an
19 original suit affecting the parent-child relationship filed on or
20 after the effective date of this Act. An original suit affecting the
21 parent-child relationship filed before the effective date of this
22 Act is subject to the law in effect at the time the suit was filed,
23 and the former law is continued in effect for that purpose.

24 SECTION 15. This Act takes effect September 1, 2017.