

1-1 By: Hughes S.B. No. 1415
 1-2 (In the Senate - Filed March 7, 2017; March 16, 2017, read
 1-3 first time and referred to Committee on Health & Human Services;
 1-4 May 4, 2017, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 9, Nays 0; May 4, 2017, sent
 1-6 to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 1415 By: Taylor of Collin

1-19 A BILL TO BE ENTITLED
 1-20 AN ACT

1-21 relating to the child protective service functions of the
 1-22 Department of Family and Protective Services.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Section 155.201, Family Code, is amended by
 1-25 adding Subsection (d) to read as follows:

1-26 (d) On receiving notice that a court exercising
 1-27 jurisdiction under Chapter 262 has ordered the transfer of a suit
 1-28 under Section 262.203(a)(2), the court of continuing, exclusive
 1-29 jurisdiction shall, pursuant to the requirements of Section
 1-30 155.204(i), transfer the proceedings to the court in which the suit
 1-31 under Chapter 262 is pending.

1-32 SECTION 2. Section 155.204(i), Family Code, is amended to
 1-33 read as follows:

1-34 (i) If a transfer order has been signed by a court
 1-35 exercising jurisdiction under Chapter 262, the Department of Family
 1-36 and Protective Services shall ~~[a party may]~~ file the transfer order
 1-37 with the clerk of the court of continuing, exclusive jurisdiction.
 1-38 On receipt and without a hearing or further order from the court of
 1-39 continuing, exclusive jurisdiction, the clerk of the court of
 1-40 continuing, exclusive jurisdiction shall transfer the files as
 1-41 provided by this subchapter.

1-42 SECTION 3. Section 161.206, Family Code, is amended by
 1-43 adding Subsection (a-1) to read as follows:

1-44 (a-1) In a suit filed by the Department of Family and
 1-45 Protective Services seeking termination of the parent-child
 1-46 relationship for both parents of the child, the court may order
 1-47 termination of the parent-child relationship for a parent only if
 1-48 the court finds by clear and convincing evidence grounds for the
 1-49 termination of the parent-child relationship for that parent. An
 1-50 order rendered under this subsection must state the grounds for
 1-51 terminating the parent-child relationship for that parent.

1-52 SECTION 4. Section 262.201, Family Code, is amended by
 1-53 amending Subsection (a) and adding Subsection (a-5) to read as
 1-54 follows:

1-55 (a) Unless the child has already been returned to the
 1-56 parent, managing conservator, possessory conservator, guardian,
 1-57 caretaker, or custodian entitled to possession and the temporary
 1-58 order, if any, has been dissolved, a full adversary hearing shall be
 1-59 held not later than the 14th day after the date the child was taken
 1-60 into possession by the governmental entity, unless the court grants

2-1 an extension under Subsection (a-3) or (a-5).
 2-2 (a-5) If a parent who is not indigent appears in opposition
 2-3 to the suit, the court may, for good cause shown, postpone the full
 2-4 adversary hearing for not more than seven days from the date of the
 2-5 parent's appearance to allow the parent to hire an attorney or to
 2-6 provide the parent's attorney time to respond to the petition and
 2-7 prepare for the hearing. A postponement under this subsection is
 2-8 subject to the limits and requirements prescribed by Subsection
 2-9 (a-3).

2-10 SECTION 5. Section 262.203(a), Family Code, is amended to
 2-11 read as follows:

2-12 (a) On the motion of a party or the court's own motion, if
 2-13 applicable, the court that rendered the temporary order shall in
 2-14 accordance with procedures provided by Chapter 155:

2-15 (1) transfer the suit to the court of continuing,
 2-16 exclusive jurisdiction, if any, if the court finds that the
 2-17 transfer is:

2-18 (A) necessary for the convenience of the parties;
 2-19 and

2-20 (B) in the best interest of the child;

2-21 (2) ~~[if grounds exist for mandatory transfer from the~~
 2-22 ~~court of continuing, exclusive jurisdiction under Section~~
 2-23 ~~155.201,] order transfer of the suit from the [that] court of~~
 2-24 ~~continuing, exclusive jurisdiction; or~~

2-25 (3) if grounds exist for transfer based on improper
 2-26 venue, order transfer of the suit to the court having venue of the
 2-27 suit under Chapter 103.

2-28 SECTION 6. Subchapter C, Chapter 262, Family Code, is
 2-29 amended by adding Section 262.206 to read as follows:

2-30 Sec. 262.206. EX PARTE HEARINGS PROHIBITED. Unless
 2-31 otherwise authorized by this chapter or other law, a hearing held by
 2-32 a court in a suit under this chapter may not be ex parte.

2-33 SECTION 7. Section 263.401, Family Code, is amended to read
 2-34 as follows:

2-35 Sec. 263.401. DISMISSAL AFTER ONE YEAR; NEW TRIALS;
 2-36 EXTENSION. (a) Unless the court has commenced the trial on the
 2-37 merits or granted an extension under Subsection (b) or (b-1), on the
 2-38 first Monday after the first anniversary of the date the court
 2-39 rendered a temporary order appointing the department as temporary
 2-40 managing conservator, the court's jurisdiction over [court shall
 2-41 dismiss] the suit affecting the parent-child relationship filed by
 2-42 the department that requests termination of the parent-child
 2-43 relationship or requests that the department be named conservator
 2-44 of the child is terminated and the suit is automatically dismissed
 2-45 without a court order.

2-46 (b) Unless the court has commenced the trial on the merits,
 2-47 the court may not retain the suit on the court's docket after the
 2-48 time described by Subsection (a) unless the court finds that
 2-49 extraordinary circumstances necessitate the child remaining in the
 2-50 temporary managing conservatorship of the department and that
 2-51 continuing the appointment of the department as temporary managing
 2-52 conservator is in the best interest of the child. If the court
 2-53 makes those findings, the court may retain the suit on the court's
 2-54 docket for a period not to exceed 180 days after the time described
 2-55 by Subsection (a). If the court retains the suit on the court's
 2-56 docket, the court shall render an order in which the court:

2-57 (1) schedules the new date on which the suit will be
 2-58 automatically dismissed if the trial on the merits has not
 2-59 commenced, which date must be not later than the 180th day after the
 2-60 time described by Subsection (a);

2-61 (2) makes further temporary orders for the safety and
 2-62 welfare of the child as necessary to avoid further delay in
 2-63 resolving the suit; and

2-64 (3) sets the trial on the merits on a date not later
 2-65 than the date specified under Subdivision (1).

2-66 (b-1) If, after commencement of the initial trial on the
 2-67 merits within the time required by Subsection (a) or (b), the court
 2-68 grants a motion for a new trial or mistrial, or the case is remanded
 2-69 to the court by an appellate court following an appeal of the

3-1 court's final order, the court shall retain the suit on the court's
3-2 docket and render an order in which the court:

3-3 (1) schedules a new date on which the suit will be
3-4 automatically dismissed if the new trial has not commenced, which
3-5 must be a date not later than the 180th day after the date on which:

3-6 (A) the motion for a new trial or mistrial is
3-7 granted; or

3-8 (B) the appellate court remanded the case;

3-9 (2) makes further temporary orders for the safety and
3-10 welfare of the child as necessary to avoid further delay in
3-11 resolving the suit; and

3-12 (3) sets the new trial on the merits for a date not
3-13 later than the date specified under Subdivision (1).

3-14 (c) If the court grants an extension under Subsection (b) or
3-15 (b-1) but does not commence the trial on the merits before the
3-16 dismissal date, the court's jurisdiction over [court shall dismiss]
3-17 the suit is terminated and the suit is automatically dismissed
3-18 without a court order. The court may not grant an additional
3-19 extension that extends the suit beyond the required date for
3-20 dismissal under Subsection (b) or (b-1), as applicable.

3-21 (d) On dismissal of the suit, the clerk shall notify each
3-22 party of the dismissal.

3-23 SECTION 8. Section 263.402(b), Family Code, is repealed.

3-24 SECTION 9. The changes in law made by this Act apply only to
3-25 a suit affecting the parent-child relationship filed on or after
3-26 the effective date of this Act. A suit affecting the parent-child
3-27 relationship filed before the effective date of this Act is
3-28 governed by the law in effect on the date the suit was filed, and the
3-29 former law is continued in effect for that purpose.

3-30 SECTION 10. This Act takes effect September 1, 2017.

3-31 * * * * *