

1-1 By: Hughes S.B. No. 2091  
 1-2 (In the Senate - Filed March 7, 2019; March 21, 2019, read  
 1-3 first time and referred to Committee on Health & Human Services;  
 1-4 May 15, 2019, reported adversely, with favorable Committee  
 1-5 Substitute by the following vote: Yeas 5, Nays 1; May 15, 2019,  
 1-6 sent 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. 2091 By: Buckingham

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

1-21 relating to the procedures and grounds for terminating the  
 1-22 parent-child relationship, for taking possession of a child, and  
 1-23 for certain hearings in a suit affecting the parent-child  
 1-24 relationship involving the Department of Family and Protective  
 1-25 Services.

1-26 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-27 SECTION 1. Section 161.001(c), Family Code, is amended to  
 1-28 read as follows:

1-29 (c) Evidence that the parent engaged in one or more of the  
 1-30 following activities does not constitute clear and convincing  
 1-31 evidence sufficient for a court to [A court may not] make a finding  
 1-32 under Subsection (b) and order termination of the parent-child  
 1-33 relationship [based on evidence that the parent]:

- 1-34 (1) homeschooled the child;
- 1-35 (2) is economically disadvantaged;
- 1-36 (3) has been charged with a nonviolent misdemeanor  
 1-37 offense other than:

- 1-38 (A) an offense under Title 5, Penal Code;
- 1-39 (B) an offense under Title 6, Penal Code; or
- 1-40 (C) an offense that involves family violence, as  
 1-41 defined by Section 71.004 of this code;

1-42 (4) provided or administered low-THC cannabis to a  
 1-43 child for whom the low-THC cannabis was prescribed under Chapter  
 1-44 169, Occupations Code; ~~or~~

1-45 (5) declined immunization for the child for reasons of  
 1-46 conscience, including a religious belief; or

1-47 (6) after taking reasonable precautionary measures,  
 1-48 allowed a child, who is of sufficient maturity, physical condition,  
 1-49 and mental ability to avoid substantial risk of physical harm, to  
 1-50 engage in independent activities, including:

1-51 (A) traveling to and from the child's home and  
 1-52 school, including by walking, running, or bicycling;

1-53 (B) traveling to and from the child's home and a  
 1-54 commercial or recreational facility near to the child's home;

1-55 (C) engaging in outdoor play;

1-56 (D) remaining at the child's home unattended; or

1-57 (E) engaging in other activities that are  
 1-58 generally accepted as suitable for a child's age or level of  
 1-59 maturity or that are developmentally appropriate for a child based  
 1-60 on the development of cognitive, emotional, physical, and

2-1 behavioral capacities typical for the age or age group.

2-2 SECTION 2. Section 161.101, Family Code, is amended to read  
2-3 as follows:

2-4 Sec. 161.101. PETITION ALLEGATIONS. (a) A petition for  
2-5 the termination of the parent-child relationship is sufficient  
2-6 without the necessity of specifying the underlying facts if the  
2-7 petition alleges in the statutory language the ground for the  
2-8 termination and that termination is in the best interest of the  
2-9 child.

2-10 (b) A petition or motion filed by the Department of Family  
2-11 and Protective Services is subject to Chapter 10, Civil Practice  
2-12 and Remedies Code, and Rule 13, Texas Rules of Civil Procedure.

2-13 SECTION 3. Section 261.001(4), Family Code, is amended to  
2-14 read as follows:

2-15 (4) "Neglect":

2-16 (A) includes:

2-17 (i) the leaving of a child in a situation  
2-18 where the child would be exposed to a substantial risk of physical  
2-19 or mental harm, without arranging for necessary care for the child,  
2-20 and the demonstration of an intent not to return by a parent,  
2-21 guardian, or managing or possessory conservator of the child;

2-22 (ii) the following acts or omissions by a  
2-23 person:

2-24 (a) placing a child in or failing to  
2-25 remove a child from a situation that a reasonable person would  
2-26 realize requires judgment or actions beyond the child's level of  
2-27 maturity, physical condition, or mental abilities and that results  
2-28 in bodily injury or a substantial risk of immediate harm to the  
2-29 child;

2-30 (b) failing to seek, obtain, or follow  
2-31 through with medical care for a child, with the failure resulting in  
2-32 or presenting a substantial risk of death, disfigurement, or bodily  
2-33 injury or with the failure resulting in an observable and material  
2-34 impairment to the growth, development, or functioning of the child;

2-35 (c) the failure to provide a child  
2-36 with food, clothing, or shelter necessary to sustain the life or  
2-37 health of the child, excluding failure caused primarily by  
2-38 financial inability unless relief services had been offered and  
2-39 refused;

2-40 (d) placing a child in or failing to  
2-41 remove the child from a situation in which the child would be  
2-42 exposed to a substantial risk of sexual conduct harmful to the  
2-43 child; or

2-44 (e) placing a child in or failing to  
2-45 remove the child from a situation in which the child would be  
2-46 exposed to acts or omissions that constitute abuse under  
2-47 Subdivision (1)(E), (F), (G), (H), or (K) committed against another  
2-48 child;

2-49 (iii) the failure by the person responsible  
2-50 for a child's care, custody, or welfare to permit the child to  
2-51 return to the child's home without arranging for the necessary care  
2-52 for the child after the child has been absent from the home for any  
2-53 reason, including having been in residential placement or having  
2-54 run away; or

2-55 (iv) a negligent act or omission by an  
2-56 employee, volunteer, or other individual working under the auspices  
2-57 of a facility or program, including failure to comply with an  
2-58 individual treatment plan, plan of care, or individualized service  
2-59 plan, that causes or may cause substantial emotional harm or  
2-60 physical injury to, or the death of, a child served by the facility  
2-61 or program as further described by rule or policy; and

2-62 (B) does not include:

2-63 (i) the refusal by a person responsible for  
2-64 a child's care, custody, or welfare to permit the child to remain in  
2-65 or return to the child's home resulting in the placement of the  
2-66 child in the conservatorship of the department if:

2-67 (a) ~~(i)~~ the child has a severe  
2-68 emotional disturbance;

2-69 (b) ~~(ii)~~ the person's refusal is

3-1 based solely on the person's inability to obtain mental health  
 3-2 services necessary to protect the safety and well-being of the  
 3-3 child; and

3-4 (c) [~~(iii)~~] the person has exhausted  
 3-5 all reasonable means available to the person to obtain the mental  
 3-6 health services described by Sub-subparagraph (b); or

3-7 (ii) the decision by a person responsible  
 3-8 for a child's care, custody, or welfare, after taking reasonable  
 3-9 precautionary measures, to permit the child, if the child is of  
 3-10 sufficient maturity, physical condition, and mental ability to  
 3-11 avoid substantial risk of physical harm, to engage in independent  
 3-12 activities, including:

3-13 (a) traveling to and from the child's  
 3-14 home and school, including by walking, running, or bicycling;

3-15 (b) traveling to and from the child's  
 3-16 home and a commercial or recreational facility near to the child's  
 3-17 home;

3-18 (c) engaging in outdoor play;

3-19 (d) remaining at the child's home  
 3-20 unattended; or

3-21 (e) engaging in other activities that  
 3-22 are generally accepted as suitable for a child's age or level of  
 3-23 maturity or that are developmentally appropriate for a child based  
 3-24 on the development of cognitive, emotional, physical, and  
 3-25 behavioral capacities typical for the age or age group  
 3-26 [Subparagraph (ii)].

3-27 SECTION 4. Section 262.001, Family Code, is amended by  
 3-28 adding Subsections (c) and (d) to read as follows:

3-29 (c) In determining whether the actions taken by a  
 3-30 governmental entity to prevent or eliminate the need to remove a  
 3-31 child from the child's home constitute the reasonable efforts  
 3-32 required by this chapter, the court shall consider whether:

3-33 (1) the actions are consistent with the circumstances;

3-34 (2) the actions provide for the safety of the child;

3-35 and

3-36 (3) the governmental entity weighed the danger to the  
 3-37 physical health or safety of the child against the emotional  
 3-38 distress that may result from disrupting the parent-child  
 3-39 relationship by removing the child from the child's home or parent.

3-40 (d) In making a determination under Subsection (c), the  
 3-41 court may not:

3-42 (1) consider expert testimony; or

3-43 (2) authorize a psychological evaluation of the child  
 3-44 or an assessment of the child's mental health.

3-45 SECTION 5. Section 262.101, Family Code, is amended to read  
 3-46 as follows:

3-47 Sec. 262.101. FILING PETITION BEFORE TAKING POSSESSION OF  
 3-48 CHILD. An original suit filed by a governmental entity that  
 3-49 requests permission to take possession of a child without prior  
 3-50 notice and a hearing must be supported by an affidavit sworn to by a  
 3-51 person with personal knowledge and stating facts sufficient to  
 3-52 satisfy a person of ordinary prudence and caution that:

3-53 (1) there is an immediate danger to the physical  
 3-54 health or safety of the child or the child has been a victim of  
 3-55 neglect or sexual abuse;

3-56 (2) continuation in the home would be contrary to the  
 3-57 child's welfare;

3-58 (3) there is no time, consistent with the physical  
 3-59 health or safety of the child, for a full adversary hearing under  
 3-60 Subchapter C; and

3-61 (4) reasonable efforts [~~, consistent with the~~  
 3-62 ~~circumstances and providing for the safety of the child,~~]  
 3-63 were made to prevent or eliminate the need for the removal of the child.

3-64 SECTION 6. Section 262.102(a), Family Code, is amended to  
 3-65 read as follows:

3-66 (a) Before a court may, without prior notice and a hearing,  
 3-67 issue a temporary order for the conservatorship of a child under  
 3-68 Section 105.001(a)(1) or a temporary restraining order or  
 3-69 attachment of a child authorizing a governmental entity to take

4-1 possession of a child in a suit brought by a governmental entity,  
4-2 the court must find that:

4-3 (1) there is an immediate danger to the physical  
4-4 health or safety of the child or the child has been a victim of  
4-5 neglect or sexual abuse;

4-6 (2) continuation in the home would be contrary to the  
4-7 child's welfare;

4-8 (3) there is no time, consistent with the physical  
4-9 health or safety of the child and the nature of the emergency, for a  
4-10 full adversary hearing under Subchapter C; and

4-11 (4) reasonable efforts[~~, consistent with the~~  
4-12 ~~circumstances and providing for the safety of the child,~~] were made  
4-13 to prevent or eliminate the need for removal of the child.

4-14 SECTION 7. Section 262.105(b), Family Code, is amended to  
4-15 read as follows:

4-16 (b) An original suit filed by a governmental entity after  
4-17 taking possession of a child under Section 262.104 must be  
4-18 supported by an affidavit stating facts sufficient to satisfy a  
4-19 person of ordinary prudence and caution that:

4-20 (1) based on the affiant's personal knowledge or on  
4-21 information furnished by another person corroborated by the  
4-22 affiant's personal knowledge, one of the following circumstances  
4-23 existed at the time the child was taken into possession:

4-24 (A) there was an immediate danger to the physical  
4-25 health or safety of the child;

4-26 (B) the child was the victim of sexual abuse or of  
4-27 trafficking under Section 20A.02 or 20A.03, Penal Code;

4-28 (C) the parent or person who had possession of  
4-29 the child was using a controlled substance as defined by Chapter  
4-30 481, Health and Safety Code, and the use constituted an immediate  
4-31 danger to the physical health or safety of the child; or

4-32 (D) the parent or person who had possession of  
4-33 the child permitted the child to remain on premises used for the  
4-34 manufacture of methamphetamine; and

4-35 (2) based on the affiant's personal knowledge:

4-36 (A) continuation of the child in the home would  
4-37 have been contrary to the child's welfare;

4-38 (B) there was no time, consistent with the  
4-39 physical health or safety of the child, for a full adversary hearing  
4-40 under Subchapter C; and

4-41 (C) reasonable efforts[~~, consistent with the~~  
4-42 ~~circumstances and providing for the safety of the child,~~] were made  
4-43 to prevent or eliminate the need for the removal of the child.

4-44 SECTION 8. Section 262.107(a), Family Code, is amended to  
4-45 read as follows:

4-46 (a) The court shall order the return of the child at the  
4-47 initial hearing regarding a child taken in possession without a  
4-48 court order by a governmental entity unless the court is satisfied  
4-49 that:

4-50 (1) the evidence shows that one of the following  
4-51 circumstances exists:

4-52 (A) there is a continuing danger to the physical  
4-53 health or safety of the child if the child is returned to the  
4-54 parent, managing conservator, possessory conservator, guardian,  
4-55 caretaker, or custodian who is presently entitled to possession of  
4-56 the child;

4-57 (B) the child has been the victim of sexual abuse  
4-58 or of trafficking under Section 20A.02 or 20A.03, Penal Code, on one  
4-59 or more occasions and that there is a substantial risk that the  
4-60 child will be the victim of sexual abuse or of trafficking in the  
4-61 future;

4-62 (C) the parent or person who has possession of  
4-63 the child is currently using a controlled substance as defined by  
4-64 Chapter 481, Health and Safety Code, and the use constitutes an  
4-65 immediate danger to the physical health or safety of the child; or

4-66 (D) the parent or person who has possession of  
4-67 the child has permitted the child to remain on premises used for the  
4-68 manufacture of methamphetamine;

4-69 (2) continuation of the child in the home would be

5-1 contrary to the child's welfare; and

5-2 (3) reasonable efforts [~~consistent with the~~  
5-3 ~~circumstances and providing for the safety of the child,~~] were made  
5-4 to prevent or eliminate the need for removal of the child.

5-5 SECTION 9. Section 262.113, Family Code, is amended to read  
5-6 as follows:

5-7 Sec. 262.113. FILING SUIT WITHOUT TAKING POSSESSION OF  
5-8 CHILD. An original suit filed by a governmental entity that  
5-9 requests to take possession of a child after notice and a hearing  
5-10 must be supported by an affidavit sworn to by a person with personal  
5-11 knowledge and stating facts sufficient to satisfy a person of  
5-12 ordinary prudence and caution that:

5-13 (1) there is a continuing danger to the physical  
5-14 health or safety of the child caused by an act or failure to act of  
5-15 the person entitled to possession of the child and that allowing the  
5-16 child to remain in the home would be contrary to the child's  
5-17 welfare; and

5-18 (2) reasonable efforts [~~consistent with the~~  
5-19 ~~circumstances and providing for the safety of the child,~~] have been  
5-20 made to prevent or eliminate the need to remove the child from the  
5-21 child's home.

5-22 SECTION 10. Section 262.116(a), Family Code, is amended to  
5-23 read as follows:

5-24 (a) The Department of Family and Protective Services may not  
5-25 take possession of a child under this subchapter based on evidence  
5-26 that the parent:

5-27 (1) homeschooled the child;

5-28 (2) is economically disadvantaged;

5-29 (3) has been charged with a nonviolent misdemeanor  
5-30 offense other than:

5-31 (A) an offense under Title 5, Penal Code;

5-32 (B) an offense under Title 6, Penal Code; or

5-33 (C) an offense that involves family violence, as  
5-34 defined by Section 71.004 of this code;

5-35 (4) provided or administered low-THC cannabis to a  
5-36 child for whom the low-THC cannabis was prescribed under Chapter  
5-37 169, Occupations Code; ~~or~~

5-38 (5) declined immunization for the child for reasons of  
5-39 conscience, including a religious belief; or

5-40 (6) after taking reasonable precautionary measures,  
5-41 allowed a child, who is of sufficient maturity, physical condition,  
5-42 and mental ability to avoid substantial risk of physical harm, to  
5-43 engage in independent activities, including:

5-44 (A) traveling to and from the child's home and  
5-45 school, including by walking, running, or bicycling;

5-46 (B) traveling to and from the child's home and a  
5-47 commercial or recreational facility near to the child's home;

5-48 (C) engaging in outdoor play;

5-49 (D) remaining at the child's home unattended; or

5-50 (E) engaging in other activities that are  
5-51 generally accepted as suitable for a child's age or level of  
5-52 maturity or that are developmentally appropriate for a child based  
5-53 on the development of cognitive, emotional, physical, and  
5-54 behavioral capacities typical for the age or age group.

5-55 SECTION 11. Section 262.201, Family Code, is amended by  
5-56 amending Subsections (e-1), (g), (h), (j), and (n) and adding  
5-57 Subsections (g-1), (j-1), and (q) to read as follows:

5-58 (e-1) If a parent who is not indigent appears in opposition  
5-59 to the suit, the court may, for good cause shown, postpone the full  
5-60 adversary hearing for not more than seven days from the date of the  
5-61 parent's appearance to allow the parent to hire an attorney or to  
5-62 provide the parent's attorney time to respond to the petition and  
5-63 prepare for the hearing. A postponement under this subsection is  
5-64 subject to the limits and requirements prescribed by Subsection (e)  
5-65 and Section 155.207.

5-66 (g) In a suit filed under Section 262.101 or 262.105, at the  
5-67 conclusion of the full adversary hearing, the court shall order the  
5-68 return of the child to the parent, managing conservator, possessory  
5-69 conservator, guardian, caretaker, or custodian entitled to

6-1 possession from whom the child is removed unless the court finds  
 6-2 ~~[sufficient evidence to satisfy a person of ordinary prudence and~~  
 6-3 ~~caution]~~ that:

6-4 (1) there was a danger to the physical health or safety  
 6-5 of the child, including a danger that the child would be a victim of  
 6-6 trafficking under Section 20A.02 or 20A.03, Penal Code, which was  
 6-7 caused by an act or failure to act of the person entitled to  
 6-8 possession and for the child to remain in the home is contrary to  
 6-9 the welfare of the child;

6-10 (2) the urgent need for protection required the  
 6-11 immediate removal of the child and reasonable efforts~~[, consistent~~  
 6-12 ~~with the circumstances and providing for the safety of the child,]~~  
 6-13 were made to eliminate or prevent the child's removal; and

6-14 (3) reasonable efforts have been made to enable the  
 6-15 child to return home, including efforts weighing the danger to the  
 6-16 physical health or safety of the child if returned against the  
 6-17 emotional distress that may result from disrupting the parent-child  
 6-18 relationship by the continued removal of the child from the child's  
 6-19 home or parent, but there is a substantial risk of a continuing  
 6-20 danger if the child is returned home.

6-21 (g-1) In a suit filed under Section 262.101 or 262.105, if  
 6-22 the court does not order the return of the child under Subsection  
 6-23 (g) and finds that another parent, managing conservator, possessory  
 6-24 conservator, guardian, caretaker, or custodian entitled to  
 6-25 possession did not cause the immediate danger to the physical  
 6-26 health or safety of the child or was not the perpetrator of the  
 6-27 neglect or abuse alleged in the suit, the court shall order  
 6-28 possession of the child by that person unless the court finds,  
 6-29 specific to each person entitled to possession, that:

6-30 (1) the person cannot be located after the exercise of  
 6-31 due diligence by the Department of Family and Protective Services  
 6-32 or the person is unable or unwilling to take possession of the  
 6-33 child; or

6-34 (2) reasonable efforts have been made to enable the  
 6-35 person's possession of the child, but possession by that person  
 6-36 presents a continuing danger to the physical health or safety of the  
 6-37 child caused by an act or failure to act of the person, including a  
 6-38 danger that the child would be a victim of trafficking under Section  
 6-39 20A.02 or 20A.03, Penal Code.

6-40 (h) In a suit filed under Section 262.101 or 262.105, if the  
 6-41 court finds sufficient evidence to make the applicable finding  
 6-42 under Subsection (g) or (g-1) ~~[satisfy a person of ordinary~~  
 6-43 prudence and caution that there is a continuing danger to the  
 6-44 physical health or safety of the child and for the child to remain  
 6-45 in the home is contrary to the welfare of the child], the court  
 6-46 shall issue an appropriate temporary order under Chapter 105.

6-47 (j) In a suit filed under Section 262.113, at the conclusion  
 6-48 of the full adversary hearing, the court shall issue an appropriate  
 6-49 temporary order under Chapter 105 if the court finds, with respect  
 6-50 to the parent, managing conservator, possessory conservator,  
 6-51 guardian, caretaker, or custodian entitled to possession from whom  
 6-52 the Department of Family and Protective Services is seeking  
 6-53 removal, ~~[sufficient evidence to satisfy a person of ordinary~~  
 6-54 prudence and caution] that:

6-55 (1) there is a continuing danger to the physical  
 6-56 health or safety of the child caused by an act or failure to act of  
 6-57 the person entitled to possession of the child and continuation of  
 6-58 the child in the person's home would be contrary to the child's  
 6-59 welfare; and

6-60 (2) reasonable efforts~~[, consistent with the~~  
 6-61 circumstances and providing for the safety of the child,] were made  
 6-62 to prevent or eliminate the need for the removal of the child.

6-63 (j-1) In a suit filed under Section 262.113, if the court  
 6-64 orders the removal of the child under Subsection (j) and finds that  
 6-65 another parent, managing conservator, possessory conservator,  
 6-66 guardian, caretaker, or custodian entitled to possession did not  
 6-67 cause the continuing danger to the physical health or safety of the  
 6-68 child or was not the perpetrator of the neglect or abuse alleged in  
 6-69 the suit, the court shall order possession of the child by that

7-1 person unless the court finds, specific to each person entitled to  
7-2 possession, that:

7-3 (1) the person cannot be located after the exercise of  
7-4 due diligence by the Department of Family and Protective Services  
7-5 or the person is unable or unwilling to take possession of the  
7-6 child; or

7-7 (2) reasonable efforts have been made to enable the  
7-8 person's possession of the child, but possession by that person  
7-9 presents a continuing danger to the physical health or safety of the  
7-10 child caused by an act or failure to act of the person, including a  
7-11 danger that the child would be a victim of trafficking under Section  
7-12 20A.02 or 20A.03, Penal Code.

7-13 (n) If the [The] court does not order possession of [shall  
7-14 place] a child by a [removed from the child's custodial parent with  
7-15 the child's noncustodial] parent, managing conservator, possessory  
7-16 conservator, guardian, caretaker, or custodian entitled to  
7-17 possession under Subsection (g), (g-1), (j), or (j-1), the court  
7-18 shall place the child [or] with a relative of the child [if  
7-19 placement with the noncustodial parent is inappropriate,] unless  
7-20 the court finds that the placement with [the noncustodial parent  
7-21 or] a relative is not in the best interest of the child.

7-22 (g) On receipt of a written request for possession of the  
7-23 child from a parent, managing conservator, possessory conservator,  
7-24 guardian, caretaker, or custodian entitled to possession of the  
7-25 child who was not located before the adversary hearing, the  
7-26 Department of Family and Protective Services shall notify the court  
7-27 and request a hearing to determine whether the parent, managing  
7-28 conservator, possessory conservator, guardian, caretaker, or  
7-29 custodian is entitled to possession of the child under Subsection  
7-30 (g-1) or (j-1).

7-31 SECTION 12. Section 263.002, Family Code, is amended by  
7-32 amending Subsection (c) and adding Subsection (d) to read as  
7-33 follows:

7-34 (c) At each permanency hearing before the final order, the  
7-35 court shall review the placement of each child in the temporary  
7-36 managing conservatorship of the department who has not been  
7-37 returned to the child's home. At the end of the hearing, the court  
7-38 shall order the department to return the child to the child's parent  
7-39 or parents unless the court finds, with respect to each parent,  
7-40 that:

7-41 (1) there is a continuing danger to the physical  
7-42 health or safety of the child; and

7-43 (2) returning the child to the child's parent or  
7-44 parents [The court shall make a finding on whether returning the  
7-45 child to the child's home is safe and appropriate, whether the  
7-46 return is in the best interest of the child, and whether it] is  
7-47 contrary to the welfare of the child [for the child to return home].

7-48 (d) This section does not prohibit the court from rendering  
7-49 an order under Section 263.403.

7-50 SECTION 13. Subchapter E, Chapter 263, Family Code, is  
7-51 amended by adding Section 263.4011 to read as follows:

7-52 Sec. 263.4011. RENDERING FINAL ORDER; EXTENSION. (a) On  
7-53 timely commencement of the trial on the merits required by Section  
7-54 263.401, the court shall render a final order not later than the  
7-55 90th day after the date the trial commences.

7-56 (b) The 90-day period for rendering a final order under  
7-57 Subsection (a) is not tolled for any recess during the trial.

7-58 (c) If the court finds that extraordinary circumstances  
7-59 necessitate extending the 90-day period under Subsection (a), the  
7-60 court may grant one extension of that date for not longer than 30  
7-61 days. The court shall render a written order:

7-62 (1) specifying the grounds on which the extension is  
7-63 granted; and

7-64 (2) requiring a final order to be rendered not later  
7-65 than the 30th day after the date the extension is granted.

7-66 (d) A party may file a mandamus proceeding if the court  
7-67 fails to render a final order within the time required by this  
7-68 section.

7-69 SECTION 14. Section 263.403(a-1), Family Code, is amended

8-1 to read as follows:

8-2 (a-1) Unless the court has granted an extension under  
 8-3 Section 263.401(b), the department or the parent may request the  
 8-4 court to retain jurisdiction for an additional six months as  
 8-5 necessary for a parent to complete the remaining requirements under  
 8-6 [in] a service plan [and specified] in a transition monitored  
 8-7 return under Subsection (a)(2)(B) [the temporary order that are  
 8-8 mandatory for the child's return].

8-9 SECTION 15. Section 263.404(a), Family Code, is amended to  
 8-10 read as follows:

8-11 (a) The court may render a final order appointing the  
 8-12 department as managing conservator of the child without terminating  
 8-13 the rights of the parent of the child if the court finds that:

8-14 (1) appointment of a parent as managing conservator  
 8-15 would not be in the best interest of the child because the  
 8-16 appointment would significantly impair the child's physical health  
 8-17 or emotional development; ~~and]~~

8-18 (2) it would not be in the best interest of the child  
 8-19 to appoint a relative of the child or another person as managing  
 8-20 conservator; and

8-21 (3) if the child has previously been in the  
 8-22 conservatorship of the department, there is sufficient evidence to  
 8-23 demonstrate that termination of parental rights to the child is not  
 8-24 possible or not in the child's best interest.

8-25 SECTION 16. Section 263.405, Family Code, is amended by  
 8-26 adding Subsection (d) to read as follows:

8-27 (d) A party, regardless of whether the party is represented  
 8-28 by counsel, must sign the notice of appeal of a final order rendered  
 8-29 under this subchapter and provide on the notice the party's mailing  
 8-30 address, telephone number, e-mail address, and any fax number.

8-31 SECTION 17. Section 264.203, Family Code, is amended to  
 8-32 read as follows:

8-33 Sec. 264.203. REQUIRED PARTICIPATION. (a) The department  
 8-34 may file a suit requesting [Except as provided by Subsection (d),]  
 8-35 the court to render a temporary [on request of the department may]  
 8-36 order requiring the parent, managing conservator, guardian, or  
 8-37 other member of the [subject] child's household to:

8-38 (1) participate in the services for which the  
 8-39 department makes a referral or services the department provides or  
 8-40 purchases for:

8-41 (A) alleviating the effects of the abuse or  
 8-42 neglect that has occurred; or

8-43 (B) reducing a continuing danger to the physical  
 8-44 health or safety of the child caused by an act or failure to act of  
 8-45 the parent, managing conservator, guardian, or other member of the  
 8-46 child's household [the reasonable likelihood that the child may be  
 8-47 abused or neglected in the immediate or foreseeable future]; and

8-48 (2) permit the child and any siblings of the child to  
 8-49 receive the services.

8-50 (b) A suit requesting an order under this section may be  
 8-51 filed in a court with jurisdiction to hear the suit in the county in  
 8-52 which the child is located [The department may request the court to  
 8-53 order the parent, managing conservator, guardian, or other member  
 8-54 of the child's household to participate in the services whether the  
 8-55 child resides in the home or has been removed from the home].

8-56 (c) Except as otherwise provided by this subchapter, the  
 8-57 suit is governed by the Texas Rules of Civil Procedure applicable to  
 8-58 the filing of an original lawsuit [If the person ordered to  
 8-59 participate in the services fails to follow the court's order, the  
 8-60 court may impose appropriate sanctions in order to protect the  
 8-61 health and safety of the child, including the removal of the child  
 8-62 as specified by Chapter 262].

8-63 (d) The petition shall be supported by a sworn affidavit by  
 8-64 a person based on personal knowledge and stating facts sufficient  
 8-65 to support a finding that:

8-66 (1) the child has been a victim of abuse or neglect or  
 8-67 is at substantial risk of abuse or neglect; and

8-68 (2) there is a continuing danger to the physical  
 8-69 health or safety of the child caused by an act or failure to act of



9-1 the parent, managing conservator, guardian, or other member of the  
9-2 child's household unless that person participates in services  
9-3 requested by the department [If the court does not order the person  
9-4 to participate, the court in writing shall specify the reasons for  
9-5 not ordering participation].

9-6 (e) In a suit filed under this section, the court may render  
9-7 a temporary restraining order as provided by Section 105.001.

9-8 (f) The court shall hold a hearing on the petition not later  
9-9 than the 14th day after the date the petition is filed unless the  
9-10 court finds good cause for extending that date for not more than 14  
9-11 days.

9-12 (g) The court shall appoint an attorney ad litem to  
9-13 represent the interests of the child immediately after the filing  
9-14 but before the hearing to ensure adequate representation of the  
9-15 child. The attorney ad litem for the child shall have the powers  
9-16 and duties of an attorney ad litem for a child under Chapter 107.

9-17 (h) The court shall appoint an attorney ad litem to  
9-18 represent the interests of a parent for whom participation in  
9-19 services is being requested immediately after the filing but before  
9-20 the hearing to ensure adequate representation of the parent. The  
9-21 attorney ad litem for the parent shall have the powers and duties of  
9-22 an attorney ad litem for a parent under Section 107.0131.

9-23 (i) Before commencement of the hearing, the court shall  
9-24 inform each parent of:

9-25 (1) the parent's right to be represented by an  
9-26 attorney; and

9-27 (2) for a parent who is indigent and appears in  
9-28 opposition to the motion, the parent's right to a court-appointed  
9-29 attorney.

9-30 (j) If a parent claims indigence, the court shall require  
9-31 the parent to complete and file with the court an affidavit of  
9-32 indigence. The court may consider additional evidence to determine  
9-33 whether the parent is indigent, including evidence relating to the  
9-34 parent's income, source of income, assets, property ownership,  
9-35 benefits paid in accordance with a federal, state, or local public  
9-36 assistance program, outstanding obligations, and necessary  
9-37 expenses and the number and ages of the parent's dependents. If the  
9-38 court determines the parent is indigent, the attorney ad litem  
9-39 appointed to represent the interests of the parent may continue the  
9-40 representation. If the court determines the parent is not  
9-41 indigent, the court shall discharge the attorney ad litem from the  
9-42 appointment after the hearing and shall order the parent to pay the  
9-43 cost of the attorney ad litem's representation.

9-44 (k) The court may, for good cause shown, postpone any  
9-45 subsequent proceedings for not more than seven days after the date  
9-46 of the attorney ad litem's discharge to allow the parent to hire an  
9-47 attorney or to provide the parent's attorney time to prepare for the  
9-48 subsequent proceeding.

9-49 (l) An order may not be rendered under this section except  
9-50 after notice and hearing.

9-51 (m) At the conclusion of the hearing, the court shall deny  
9-52 the petition unless the court finds by a preponderance of evidence  
9-53 that:

9-54 (1) abuse or neglect has occurred or there is a  
9-55 continuing danger to the physical health or safety of the child  
9-56 caused by an act or failure to act of the person entitled to  
9-57 possession; and

9-58 (2) services to the family are necessary to ensure the  
9-59 safety of the child.

9-60 (n) If the court finds sufficient evidence under Subsection  
9-61 (m), the court shall:

9-62 (1) state its findings in the order;

9-63 (2) make appropriate temporary orders under Chapter  
9-64 105 necessary to ensure the safety of the child; and

9-65 (3) order the participation in specific services  
9-66 narrowly tailored to address the findings made by the court under  
9-67 Subsection (m).

9-68 (o) Not later than the 90th day after the date the court  
9-69 renders an order under this section, the court shall hold a status

10-1 hearing to review the status of each party and the child and the  
10-2 services provided, purchased, or referred for the family. The  
10-3 court shall set subsequent review hearings every 90 days to review  
10-4 the continued need for the order.

10-5 (p) An order rendered under this section expires on the  
10-6 180th day after the date the order is signed unless it is renewed as  
10-7 provided by Subsection (q).

10-8 (q) The court may renew an order rendered under this section  
10-9 on a showing by the department of a continuing need for the order,  
10-10 after notice and hearing. The order may be renewed only one time  
10-11 for not longer than 180 days.

10-12 (r) At any time, a party affected by the order may request  
10-13 the court to terminate the order. The court shall terminate the  
10-14 order on a finding that there is no longer a need for the order.

10-15 SECTION 18. Section 262.201(a-5), Family Code, is repealed.

10-16 SECTION 19. The changes in law made by this Act apply only  
10-17 to a suit filed by the Department of Family and Protective Services  
10-18 on or after the effective date of this Act. A suit filed by the  
10-19 department before that date is governed by the law in effect on the  
10-20 date the suit was filed, and the former law is continued in effect  
10-21 for that purpose.

10-22 SECTION 20. To the extent of any conflict, this Act prevails  
10-23 over another Act of the 86th Legislature, Regular Session, 2019,  
10-24 relating to nonsubstantive additions to and corrections in enacted  
10-25 codes.

10-26 SECTION 21. This Act takes effect October 1, 2019.

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