

By: Gates

H.B. No. 1700

A BILL TO BE ENTITLED

AN ACT

1
2 relating to certain procedures in suits affecting the parent-child
3 relationship filed by the Department of Family and Protective
4 Services.

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

6 SECTION 1. Section 102.008(b), Family Code, is amended to
7 read as follows:

8 (b) The petition must include:

9 (1) a statement that:

10 (A) the court in which the petition is filed has
11 continuing, exclusive jurisdiction or that no court has continuing
12 jurisdiction of the suit; or

13 (B) in a suit in which adoption of a child is
14 requested, the court in which the petition is filed has
15 jurisdiction of the suit under Section 103.001(b);

16 (2) the name and date of birth of the child, except
17 that if adoption of a child is requested, the name of the child may
18 be omitted;

19 (3) the full name of the petitioner and the
20 petitioner's relationship to the child or the fact that no
21 relationship exists;

22 (4) the names of the parents, except in a suit in which
23 adoption is requested;

24 (5) the name of the managing conservator, if any, or

1 the child's custodian, if any, appointed by order of a court of
2 another state or country;

3 (6) the names of the guardians of the person and estate
4 of the child, if any;

5 (7) the names of possessory conservators or other
6 persons, if any, having possession of or access to the child under
7 an order of the court;

8 (8) the name of an alleged father of the child or a
9 statement that the identity of the father of the child is unknown;

10 (9) a full description and statement of value of all
11 property owned or possessed by the child;

12 (10) a statement describing what action the court is
13 requested to take concerning the child and the statutory grounds on
14 which the request is made;

15 (11) in a suit under Chapter 161, 261, or 262, a
16 separate statement describing the particular statutory grounds of
17 abuse or neglect alleged as to each applicable child;

18 (12) a statement as to whether, in regard to a party to
19 the suit or a child of a party to the suit:

20 (A) there is in effect:

21 (i) a protective order under Title 4;

22 (ii) a protective order under Subchapter A,
23 Chapter 7B, Code of Criminal Procedure; or

24 (iii) an order for emergency protection
25 under Article 17.292, Code of Criminal Procedure; or

26 (B) an application for an order described by
27 Paragraph (A) is pending; and

1 (13) [~~(12)~~] any other information required by this
2 title.

3 SECTION 2. Chapter 102, Family Code, is amended by adding
4 Section 102.0082 to read as follows:

5 Sec. 102.0082. FRIVOLOUS PLEADINGS AND MOTIONS BY
6 DEPARTMENT. A petition or motion filed by the Department of Family
7 and Protective Services in a suit under Chapter 161, 261, or 262 is
8 subject to Chapter 10, Civil Practice and Remedies Code, and Rule
9 13, Texas Rules of Civil Procedure.

10 SECTION 3. Subchapter D, Chapter 261, Family Code, is
11 amended by adding Section 261.3111 to read as follows:

12 Sec. 261.3111. NOTICE REQUIRED ON INITIAL CONTACT WITH
13 INDIVIDUAL SUBJECT TO INVESTIGATION. (a) At the time of the
14 initial contact with an individual subject to an investigation
15 under this chapter, or with the individual's legal representative,
16 the department shall notify the individual or the legal
17 representative of the complaints or allegations made against the
18 individual by reading or otherwise providing the complete report
19 made concerning the individual in a manner that is consistent with
20 any laws protecting the rights of the informant.

21 (b) The department shall give the notice required by
22 Subsection (a) regardless of the manner in which the initial
23 contact is made, including contact by telephone, by e-mail or other
24 electronic communication, or in person.

25 (c) The department shall provide a written copy of the
26 notice required by this section on request of the individual
27 subject to an investigation under this chapter or the individual's

1 legal representative.

2 SECTION 4. Sections 262.201(g), (h), and (j), Family Code,
3 are amended to read as follows:

4 (g) In a suit filed under Section 262.101 or 262.105, at the
5 conclusion of the full adversary hearing, the court shall order the
6 return of the child to the parent, managing conservator, possessory
7 conservator, guardian, caretaker, or custodian entitled to
8 possession unless the court finds [~~sufficient evidence to satisfy a~~
9 ~~person of ordinary prudence and caution~~] that:

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

16 (2) the urgent need for protection required the
17 immediate removal of the child and reasonable efforts, consistent
18 with the circumstances and providing for the safety of the child,
19 were made to eliminate or prevent the child's removal; and

20 (3) reasonable efforts have been made to enable the
21 child to return home, but there is clear and convincing evidence of
22 a substantial risk of a continuing danger if the child is returned
23 home.

24 (h) In a suit filed under Section 262.101 or 262.105, if the
25 court finds clear and convincing evidence [~~sufficient evidence to~~
26 ~~satisfy a person of ordinary prudence and caution~~] that there is a
27 continuing danger to the physical health or safety of the child and

1 for the child to remain in the home is contrary to the welfare of the
2 child, the court shall issue an appropriate temporary order under
3 Chapter 105.

4 (j) In a suit filed under Section 262.113, at the conclusion
5 of the full adversary hearing, the court shall issue an appropriate
6 temporary order under Chapter 105 if the court finds [~~sufficient~~
7 ~~evidence to satisfy a person of ordinary prudence and caution~~
8 ~~that~~]:

9 (1) clear and convincing evidence that there is a
10 continuing danger to the physical health or safety of the child
11 caused by an act or failure to act of the person entitled to
12 possession of the child and continuation of the child in the home
13 would be contrary to the child's welfare; and

14 (2) that reasonable efforts, consistent with the
15 circumstances and providing for the safety of the child, were made
16 to prevent or eliminate the need for the removal of the child.

17 SECTION 5. Subchapter C, Chapter 262, Family Code, is
18 amended by adding Section 262.207 to read as follows:

19 Sec. 262.207. INTERVIEW AND EXAMINATION OF CHILD. (a) On
20 the motion of a person responsible for a child's care, custody, or
21 welfare being investigated for abuse or neglect of the child, the
22 court shall render an order allowing the person's attorney to
23 interview the child at least 72 hours before the full adversary
24 hearing. A motion under this subsection may include a request to
25 record the child's testimony as provided by Section 104.003.

26 (b) On the motion of a person responsible for a child's
27 care, custody, or welfare being investigated for abuse or neglect

1 of the child, the court shall render an order allowing an
2 examination of the child to be performed at least 72 hours before
3 the full adversary hearing. The examination may include medical,
4 dental, educational, developmental, psychological, or psychiatric
5 evaluations or assessments by providers chosen by the person.

6 SECTION 6. Section 264.408, Family Code, is amended by
7 adding Subsection (d-2) to read as follows:

8 (d-2) In a suit filed by the department under Chapter 161 or
9 262, the department shall produce an electronic recording of an
10 interview described by Subsection (d) to the person responsible for
11 a child's care, custody, or welfare being investigated for abuse or
12 neglect. A court may not deny a request by the person to copy,
13 photograph, duplicate, or otherwise reproduce an electronic
14 recording of the interview.

15 SECTION 7. The change in law made by this Act applies to a
16 suit affecting the parent-child relationship that is pending on or
17 filed on or after the effective date of this Act.

18 SECTION 8. This Act takes effect September 1, 2021.