

## **BILL ANALYSIS**

H.B. 968  
By: Gates  
Juvenile Justice & Family Issues  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

The removal of a child from an abusive or neglectful home is an intensely traumatic event. While state law allows for parent and caregiver removal by court order, many parents and caregivers voluntarily choose to have themselves removed in order to keep the child in the home to mitigate trauma to the child. There have been calls to provide a mechanism in family law through which an agreement may be made to prioritize the child's needs in these situations. H.B. 968 seeks to address this issue by providing a parent or caregiver who is accused of abuse or neglect the option to voluntarily remove themselves from the home in lieu of the child's removal. This legislation would allow such an alleged perpetrator to agree in writing to an order requiring the alleged perpetrator to leave the child's residence. The agreed order could not be used against the perpetrator as an admission of child abuse or neglect. This legislation also sets out certain facts and findings sufficient to satisfy a person or a court, as applicable, before proceeding in certain suits affecting the parent-child relationship filed by the Department of Family and Protective Services.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

H.B. 968 amends the Family Code to authorize an alleged perpetrator of child abuse or neglect to agree in writing to an order, subject to a court's approval, requiring the alleged perpetrator to leave the applicable child's residence. The bill establishes the following:

- such an order is civilly or criminally enforceable but is not enforceable as a contract;
- an order may not be used against an alleged perpetrator as an admission of child abuse or neglect;
- a person affected by an order may request the court to terminate the order, which the court must do on finding the order is no longer needed and terminating the order is in the best interest of the child; and
- the order must contain a specified statement that the agreement to the order is not an admission by the alleged perpetrator of child abuse or neglect and cannot be used against the alleged perpetrator as such an admission.

H.B. 968 includes the following facts and findings among those sufficient to satisfy a person or a court, as applicable, before proceeding in certain suits affecting the parent-child relationship filed by the Department of Family and Protective Services (DFPS):

- the fact or finding that a child would not be adequately protected in the child's home with an order for removal of the alleged perpetrator or a protective order; and
- the fact or finding that placing the child with a relative or designated caregiver or with a caregiver under a parental child safety placement agreement met the following conditions:
  - the placement was offered but refused;
  - the placement was not possible because there was no time, consistent with the physical health or safety of the child and the nature of the emergency, to conduct the caregiver evaluation; or
  - the placement would pose an immediate danger to the child's physical health or safety.

The bill makes these facts and findings sufficient to satisfy a person or a court, as applicable, before proceeding with the following suits and actions:

- an original suit filed by DFPS that requests permission to take possession of a child without prior notice and a hearing that is accompanied by an affidavit describing all reasonable efforts made to prevent or eliminate the need for the removal of the child;
- an original suit filed by DFPS after taking possession of a child in an emergency without a court order that is accompanied by such an affidavit;
- a court's issuance of a temporary order for the conservatorship of a child or a temporary restraining order or attachment of a child authorizing DFPS to take possession of a child in a suit brought by DFPS; and
- a court's requirement to order a child's return at the initial hearing regarding a child taken in possession without a court order by DFPS.

H.B. 968 applies to a suit affecting the parent-child relationship filed on or after the bill's effective date.

#### **EFFECTIVE DATE**

September 1, 2023.