

BILL ANALYSIS

Senate Research Center
88R16352 BDP-D

H.B. 1087
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State Affairs
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, when the Department of Family and Protective Services (DFPS) decides to remove a child from the child's home, they are required to make what is called "reasonable efforts" to prevent that removal. This standard is so important that the Federal government mandated this requirement in the Adoption Assistance and Child Welfare Act of 1980 where it has continued in iterations ever since. States cannot receive Title IV-E foster care entitlement money if they do not make this effort first before removing a child.

HB. 1087 amends the Texas Family Code to add a provision that requires affidavits in DFPS petitions to contain a description of each reasonable effort that was made before removing a child.

By requiring DFPS affidavits to contain the actual reasonable efforts that were allegedly made before being allowed to remove a child, DFPS will meet the federal and state standard that is in place to balance the safety needs of the child with the efforts that should be made to prevent the very traumatic removal.

H.B. 1087 amends current law relating to the contents of a petition in certain suits affecting the parent-child relationship.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 262.101, Family Code, as follows:

Sec. 262.101. FILING PETITION BEFORE TAKING POSSESSION OF CHILD. (a)
Creates this subdivision from existing text.

(b) Requires that the affidavit required by Subsection (a) (relating to requiring that an original suit filed by a governmental entity that requests permission to take possession of a child without prior notice and a hearing be supported by an affidavit sworn to by a person that meets certain criteria) describe all reasonable efforts, consistent with the circumstances and providing for the safety of the child, that were made to prevent or eliminate the need for the removal of the child.

SECTION 2. Amends Section 262.102, Family Code, by adding Subsection (e) to require that the temporary order, temporary restraining order, or attachment of a child rendered by the court under Subsection (a) (relating to requiring a court, before the court is authorized to issue a temporary order for the conservatorship of a child, to make certain findings) describe the reasonable efforts, consistent with the circumstances and providing for the safety of the child, that were made to prevent or eliminate the need for the removal of the child as required by Subsection (a)(4) (relating to requiring the court to find that reasonable efforts, consistent with the circumstances and providing for the safety of the child, were made to prevent or eliminate the need for removal of the child).

SECTION 3. Amends Section 262.105, Family Code, by adding Subsection (c) to require that the affidavit required by Subsection (b) (relating to the requirement that an original suit filed by a governmental agency after taking possession of a child be supported by an affidavit) describe all reasonable efforts, consistent with the circumstances and providing for the safety of the child, that were made to prevent or eliminate the need for the removal of the child.

SECTION 4. Amends Section 262.107, Family Code, by adding Subsection (c) to require the court, if the court does not order the return of the child at an initial hearing under Subsection (a) (relating to requiring the court to order the return of the child at the initial hearing regarding a child taken in possession without a court order by a governmental entity unless the court is satisfied that certain criteria are met), to describe in writing the reasonable efforts, consistent with the circumstances and providing for the safety of the child, that were made to prevent or eliminate the need for the removal of the child.

SECTION 5. Amends Section 262.201, Family Code, by adding Subsection (g-2), as follows:

(g-2) Requires the court, if, at the conclusion of a full adversary hearing, the court renders an order under Subsection (g) (relating to requiring the court to order the return of the child to the parent, managing conservator, possessory conservator, guardian, caretaker, or custodian entitled to possession from whom the child is removed unless the court finds sufficient evidence that meets certain criteria) or (g-1) (relating to requiring the court, if the court does not order the return of the child and finds that another person entitled to possession did not cause the immediate danger to the physical health or safety of the child or was not the perpetrator of the neglect or abuse alleged in the suit, to order possession of the child by that person), to describe in writing:

(1) the reasonable efforts that were made to enable the child to return home and the substantial risk of a continuing danger if the child is returned home, as required by Subsection (g)(3) (relating to the court finding that reasonable efforts have been made to enable the child to return home, but there is a substantial risk of a continuing danger if the child is returned home); or

(2) the reasonable efforts that were made to enable a person's possession of the child and the continuing danger to the physical health or safety of the child as required by Subsection (g-1)(2) (relating to the court finding that reasonable efforts have been made to enable the person's possession of the child, but possession by that person presents a continuing danger to the physical health or safety of the child caused by an act or failure to act of the person, including a danger that the child would be a victim of trafficking).

SECTION 6. Makes application of this Act prospective.

SECTION 7. Effective date: September 1, 2023.