

BILL ANALYSIS

C.S.H.B. 1087
By: Hull
Juvenile Justice & Family Issues
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Removing a child from the child's home is a life-altering, traumatic event. In Texas, when the Department of Family and Protective Services (DFPS) files a petition to take custody of a child, DFPS is required by both federal and state law to have made reasonable efforts to prevent the removal of the child from their home. However, DFPS petitions justifying the removal of a child often make blanket statements such as "reasonable efforts were made to prevent the removal" of the child. Since state law does not currently require DFPS to list out each reasonable effort that was attempted before the removal, it is nearly impossible to hold DFPS accountable for following the law to prevent the traumatic removal. C.S.H.B. 1087 seeks to address this issue by requiring certain affidavits and orders in certain suits affecting the parent-child relationship to state the actual reasonable efforts, consistent with the circumstances and providing for the safety of the child, that were made before seeking to remove or removing a child from their home.

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

C.S.H.B. 1087 amends the Family Code to revise certain procedures required in a suit filed by a governmental entity to protect the health and safety of a child that involves taking possession of the child. The bill requires the following to 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 child's removal:

- the supporting affidavit in an original suit filed by a governmental entity that requests permission to take possession of a child without prior notice and a hearing;
- the supporting affidavit in an original suit filed by a governmental entity after taking possession of a child in an emergency without a court order;
- the court, in writing, if the court does not order the return of a child at an initial hearing after a governmental entity takes possession of the child in an emergency without a court order; and
- the temporary order for conservatorship, temporary restraining order, or attachment of a child rendered by a court authorizing a governmental entity to take possession of a child.

C.S.H.B. 1087 requires the court, at the conclusion of a full adversary hearing regarding a petition filed before or after taking possession of a child in an emergency, to describe in writing the following, as applicable:

- 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; or
- the reasonable efforts that were made to enable a person's possession of the child and the continuing danger to the child's physical health or safety.

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

EFFECTIVE DATE

September 1, 2023.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 1087 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

Whereas the introduced required the applicable affidavits and order to describe the reasonable efforts that were made to prevent or eliminate the need for a child's removal, the substitute instead requires such affidavits and order to 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.