By:  Frank H.B. No. 5030

A BILL TO BE ENTITLED

AN ACT

relating to the definition of neglect of a child and suits affecting the parent-child relationship in which the Department of Family and Protective Services central is appointed joint managing conservator with the parent.

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

SECTION 1.  Section 261.001(4)(B)(i), Family Code, is amended to read as follows:

(i)  the refusal by a person responsible for a child's care, custody, or welfare to permit the child to remain in or return to the child's home resulting in the placement of the child in the joint managing conservatorship of the department pursuant to section 262.352 if:

(a)  the child has a severe emotional disturbance;

(b)  the person's refusal is based solely on the person's inability to obtain mental health services necessary to protect the safety and well-being of the child; and

(c)  the person has exhausted all reasonable means available to the person to obtain the mental health services described by Sub-subparagraph (b.

SECTION 2.  Section 262.352, Family Code, is amended to read as follows:

(b) ~~Expired.~~ Before a court may enter an order appointing the department as the child's joint managing conservator with the parent or legal guardian, the court must find sufficient evidence to satisfy a person of ordinary prudence and caution that:

(1)  the parent or legal guardian has exhausted all reasonable means available to the parent or legal guardian to obtain mental health services to meet the child's needs;

(2)  the department is able to provide the services necessary to meet the child's mental health needs;

(3)  the department has identified an available licensed placement for the child that can meet the child's mental health needs;

(4)  the parent or legal guardian has agreed to actively participate in the child's service plan in preparation for the child's return home; and

(5)  the orders appointing the parent and the department as the child's joint managing conservators is in the child's best interest.

(c) ~~Expired.~~ Unless the court finds that the parent is indigent, the court shall order child support and medical support to be paid to the department in the amount equal to the cost of care to offset the cost of the child's placement and medical care.

(d) A child in the joint managing conservatorship of the parent or legal guardian and the department shall not receive temporary emergency care under Section 264.107(g) in a hotel or other unlicensed setting.

(e) If the department has not identified an available licensed placement for the child that can meet the child's mental health needs, the court shall either:

(i)  Order that the child be placed with the parent or legal guardian until another available licensed setting is identified by the department, or

(ii)  Discharge the department as the child's joint managing conservator and dismiss the suit affecting the parent-child relationship.

SECTION 2.  This Act takes effect September 1, 2023.