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H.B. No. 730

A BILL TO BE ENTITLED

1 AN ACT
2 relating to policies and procedures regarding certain suits
3 affecting the parent-child relationship, investigations by the
4 Department of Family and Protective Services, and parental child
5 safety placements.

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

7 SECTION 1. Section 261.303, Family Code, is amended by
8 amending Subsections (b) and (c) and adding Subsections (f), (g),
9 and (h) to read as follows:

10 (b) If admission to the home, school, or any place where the
11 child may be cannot be obtained, and if [~~then for good cause shown~~]
12 the court having family law jurisdiction has probable cause to
13 believe that admission is necessary to protect the child from abuse
14 or neglect, then the court shall order the parent, the person
15 responsible for the care of the children, or the person in charge of
16 any place where the child may be to allow entrance for the
17 interview, examination, and investigation.

18 (c) If a parent or person responsible for the child's care
19 does not consent to release of the child's prior medical,
20 psychological, or psychiatric records or to a medical,
21 psychological, or psychiatric examination of the child that is
22 requested by the department, and if the court having family law
23 jurisdiction has probable cause to believe that releasing the
24 records or conducting an examination of the child is necessary to

1 protect the child from abuse or neglect, then the court shall~~[, for~~
2 ~~good cause shown,~~] order the records to be released or the
3 examination to be made at the times and places designated by the
4 court.

5 (f) A hearing for an order under this section may not be ex
6 parte unless the court has probable cause to believe there is no
7 time, consistent with the physical health or safety of the child,
8 for a full hearing.

9 (g) A court order described by Subsection (b) or (c) must
10 include the court's findings regarding the sufficiency of evidence
11 supporting the order.

12 (h) On request of a party to the suit, the court shall
13 provide a copy of an order rendered under this section to the party.

14 SECTION 2. Section 261.307, Family Code, is amended to read
15 as follows:

16 Sec. 261.307. INFORMATION RELATING TO INVESTIGATION
17 PROCEDURE AND CHILD PLACEMENT RESOURCES. (a) After ~~[As soon as~~
18 ~~possible after]~~ initiating an investigation of a parent or other
19 person having legal custody of a child, the department shall, upon
20 first contact with the parent or with the alleged perpetrator,
21 provide to the person:

22 (1) a written summary that:

23 (A) is brief and easily understood;

24 (B) is written in a language that the person
25 understands, or if the person is illiterate, is read to the person
26 in a language that the person understands; and

27 (C) contains the following information:

1 (i) the department's procedures for
2 conducting an investigation of alleged child abuse or neglect,
3 including:

4 (a) a description of the
5 circumstances under which the department would request to remove
6 the child from the home through the judicial system; ~~and~~

7 (b) an explanation that the law
8 requires the department to refer all reports of alleged child abuse
9 or neglect to a law enforcement agency for a separate determination
10 of whether a criminal violation occurred; and

11 (c) an explanation that any statement
12 or admission made by the person to anyone may be used against the
13 person in a criminal case, as a basis to remove the child who is the
14 subject of the investigation or any other child from the person's
15 care, custody, and control either temporarily or permanently, or as
16 a basis to terminate the person's relationship with the child who is
17 the subject of the investigation or any other child;

18 (ii) the person's right to file a complaint
19 with the department or to request a review of the findings made by
20 the department in the investigation;

21 (iii) the person's right to review all
22 records of the investigation unless the review would jeopardize an
23 ongoing criminal investigation or the child's safety;

24 (iv) the person's right to seek legal
25 counsel;

26 (v) references to the statutory and
27 regulatory provisions governing child abuse and neglect and how the

1 person may obtain copies of those provisions; [~~and~~]

2 (vi) the process the person may use to
3 acquire access to the child if the child is removed from the home;

4 (vii) the rights listed under Subdivision
5 (2); and

6 (viii) the known allegations the department
7 is investigating;

8 (2) a verbal notification of the right to:

9 (A) not speak with any agent of the department
10 without legal counsel present;

11 (B) receive assistance from an attorney;

12 (C) have a court-appointed attorney if:

13 (i) the person is indigent;

14 (ii) the person is the parent of the child;

15 and

16 (iii) the department seeks a court order in
17 a suit filed under Section 262.101 or 262.105 or a court order
18 requiring the person to participate in services under Section
19 264.203;

20 (D) record any interaction or interview subject
21 to the understanding that the recording may be subject to
22 disclosure to the department, law enforcement, or another party
23 under a court order;

24 (E) refuse to allow the investigator to enter the
25 home or interview the child without a court order;

26 (F) have legal counsel present before allowing
27 the investigator to enter the home or interview the child;

1 (G) withhold consent to the release of any
2 medical or mental health records;

3 (H) withhold consent to any medical or
4 psychological examination of the child;

5 (I) refuse to submit to a drug test; and

6 (J) consult with legal counsel prior to agreeing
7 to any proposed voluntary safety plan;

8 (3) if the department determines that removal of the
9 child may be warranted, a proposed child placement resources form
10 that:

11 (A) instructs the parent or other person having
12 legal custody of the child to:

13 (i) complete and return the form to the
14 department or agency;

15 (ii) identify in the form at least three
16 individuals who could be relative caregivers or designated
17 caregivers, as those terms are defined by Section [264.751](#);

18 (iii) ask the child in a developmentally
19 appropriate manner to identify any adult, particularly an adult
20 residing in the child's community, who could be a relative
21 caregiver or designated caregiver for the child; and

22 (iv) list on the form the name of each
23 individual identified by the child as a potential relative
24 caregiver or designated caregiver; and

25 (B) informs the parent or other person of a
26 location that is available to the parent or other person to submit
27 the information in the form 24 hours a day either in person or by

1 facsimile machine or e-mail; and

2 (4) [~~(3)~~] an informational manual required by Section
3 261.3071.

4 (b) The child placement resources form described by
5 Subsection (a)(3) [~~(a)(2)~~] must include information on the periods
6 of time by which the department must complete a background check.

7 (c) The department investigator shall document that the
8 investigator provided the verbal notification required by
9 Subsection (a)(2).

10 (d) The department shall adopt a form for the purpose of
11 verifying that the parent or other person having legal custody of
12 the child received the verbal notification and written summary
13 required by this section. The department shall provide a true and
14 correct copy of the signed form to the person who is the subject of
15 the investigation or that person's attorney, if represented by an
16 attorney.

17 (e) If a person who is the subject of an investigation does
18 not receive the verbal notification and written summary required by
19 this section, any information obtained from the person, and any
20 other information that would not have been discovered without that
21 information, is not admissible for use against the person in any
22 civil proceeding.

23 SECTION 3. Subchapter D, Chapter 261, Family Code, is
24 amended by adding Section 261.3081 to read as follows:

25 Sec. 261.3081. NOTICE REGARDING CHANGES MADE BY DEPARTMENT
26 TO INVESTIGATION REPORT. The department shall notify the following
27 interested parties of any edits or corrections, other than edits or

1 corrections to remedy spelling or grammatical errors, the
2 department makes to the written report prepared by the department
3 under Section 261.308:

4 (1) the child's parent;

5 (2) the attorney for the child's parent if represented
6 by an attorney;

7 (3) an attorney ad litem for the child appointed under
8 Chapter 107;

9 (4) a guardian ad litem for the child appointed under
10 Chapter 107, including a volunteer advocate; and

11 (5) any other person the court determines has an
12 interest in the child's welfare.

13 SECTION 4. Section 262.206, Family Code, is reenacted and
14 amended to read as follows:

15 Sec. 262.206. EX PARTE HEARINGS [~~PROHIBITED~~]. (a) Unless
16 otherwise authorized by this chapter or other law, a hearing held by
17 a court in a suit under this chapter may not be ex parte.

18 (b) A court that holds an ex parte hearing authorized by
19 this chapter shall prepare and keep a record of the hearing in the
20 form of an audio or video recording or a court reporter
21 transcription.

22 (c) On request of a party to the suit, the court shall
23 provide a copy of the record of an ex parte hearing to the party.

24 (d) The Department of Family and Protective Services shall
25 provide notice of an ex parte hearing authorized by this chapter if
26 the department has received notice that a parent who is a party is
27 represented by an attorney.

1 SECTION 5. Sections 264.203(e) and (n), Family Code, are
2 amended to read as follows:

3 (e) In a suit filed under this section, the court may render
4 a temporary restraining order as provided by Section 105.001,
5 except that the court may not issue an order that places the child:

6 (1) outside of the child's home; or

7 (2) in the conservatorship of the department.

8 (n) If the court renders an order granting the petition, the
9 court shall:

10 (1) state its findings in the order;

11 (2) make appropriate temporary orders under Chapter
12 105 necessary to ensure the safety of the child, except that the
13 court may not issue a temporary order that places the child:

14 (A) outside of the child's home; or

15 (B) in the conservatorship of the department; and

16 (3) order the participation in specific services
17 narrowly tailored to address the findings made by the court under
18 Subsection (m).

19 SECTION 6. Subchapter C, Chapter 264, Family Code, is
20 amended by adding Section 264.2032 to read as follows:

21 Sec. 264.2032. REPORT ON COURT-ORDERED PARTICIPATION IN
22 SERVICES. The department shall report the number of cases in which
23 a court under Section 264.203 orders the following persons with
24 respect to a child who is placed with a caregiver under a parental
25 child safety placement under Subchapter L to participate in
26 services:

27 (1) the child's parent;

- 1 (2) the child's managing conservator;
- 2 (3) the child's guardian; or
- 3 (4) another member of the child's household.

4 SECTION 7. Section 264.901(2), Family Code, is amended to
5 read as follows:

6 (2) "Parental child safety placement" means any [~~a~~]
7 temporary out-of-home placement of a child with a caregiver that is
8 made by a parent or other person with whom the child resides in
9 accordance with a written agreement approved by the department that
10 ensures the safety of the child:

11 (A) during an investigation by the department of
12 alleged abuse or neglect of the child; or

13 (B) while the parent or other person is receiving
14 services from the department.

15 SECTION 8. Section 264.902, Family Code, is amended by
16 amending Subsection (a) and adding Subsections (e), (f), (g), (h),
17 (i), and (j) to read as follows:

18 (a) A parental child safety placement agreement must
19 include terms that clearly state:

20 (1) the respective duties of the person making the
21 placement and the caregiver, including a plan for how the caregiver
22 will access necessary medical treatment for the child and the
23 caregiver's duty to ensure that a school-age child is enrolled in
24 and attending school;

25 (2) conditions under which the person placing the
26 child may have access to the child, including how often the person
27 may visit and the circumstances under which the person's visit may

1 occur;

2 (3) the duties of the department;

3 (4) subject to Subsection (f), the date on which the
4 agreement will terminate unless terminated sooner or extended to a
5 subsequent date as provided under department policy; and

6 (5) any other term the department determines necessary
7 for the safety and welfare of the child.

8 (e) Before a parent or other person making a parental child
9 safety placement and the caregiver enter into a parental child
10 safety placement agreement, the department shall notify each person
11 of the person's right to consult with an attorney and provide the
12 person with a reasonable time in which to do so.

13 (f) An initial parental child safety placement agreement
14 automatically terminates on the earlier of the 30th day after the
15 date:

16 (1) the agreement is signed; or

17 (2) the child is placed with the caregiver.

18 (g) On the expiration of a parental child safety placement
19 agreement, the department may for good cause enter into not more
20 than two additional parental child safety placement agreements for
21 the child. On entering an additional parental child safety
22 placement agreement under this subsection, the department shall:

23 (1) reevaluate the terms and conditions of the
24 original agreement; and

25 (2) notify the parents of their right to:

26 (A) refuse to enter into the agreement; and

27 (B) be represented by an attorney or a

1 court-appointed attorney if:

2 (i) the parent is indigent; and

3 (ii) the department subsequently seeks a
4 court order to require the parents to participate in services.

5 (h) An additional parental child safety placement agreement
6 described by Subsection (g) automatically terminates on the 30th
7 day after the date the agreement is signed.

8 (i) Notwithstanding Subsections (g) and (h), the department
9 may not place a child outside of the child's home under a parental
10 child safety placement for longer than 90 calendar days unless the
11 parental child safety placement agreement is signed by both the
12 parent and the parent's attorney or a court otherwise renders an
13 order regarding the placement under Chapter 262. This subsection
14 may not be construed to affect the duration of an agreement between
15 the department and the parent other than a parental child safety
16 placement agreement.

17 (j) A parental child safety placement agreement must
18 include the following language: "THIS AGREEMENT IS ENTIRELY
19 VOLUNTARY. THE AGREEMENT MAY NOT LAST LONGER THAN 30 DAYS. THE
20 AGREEMENT MAY BE RENEWED NOT MORE THAN TWO TIMES AND FOR NOT MORE
21 THAN 30 DAYS EACH TIME. A CHILD MAY NOT BE PLACED OUTSIDE OF THE
22 CHILD'S HOME FOR LONGER THAN A TOTAL OF 90 CALENDAR DAYS WITHOUT A
23 SIGNED AGREEMENT BY THE CHILD'S PARENT AND THE PARENT'S ATTORNEY OR
24 A COURT ORDER RENDERED UNDER CHAPTER 262."

25 SECTION 9. Subchapter L, Chapter 264, Family Code, is
26 amended by adding Section 264.907 to read as follows:

27 Sec. 264.907. INCLUSIONS IN REPORTS OF PARENTAL CHILD

1 SAFETY PLACEMENTS. The department shall, where appropriate:

2 (1) include children who are placed with a caregiver
3 under a parental child safety placement agreement in any report,
4 including reports submitted to the United States Department of
5 Health and Human Services or another federal agency, in which the
6 department is required to report the number of children in the child
7 protective services system who are removed from the children's
8 homes; and

9 (2) report the information described by Subdivision
10 (1) separately from information regarding the number of children
11 removed under a suit filed under Section [262.101](#) or [262.105](#).

12 SECTION 10. (a) Section [261.303](#), Family Code, as amended by
13 this Act, applies only to an order rendered on or after the
14 effective date of this Act. An order rendered before the effective
15 date of this Act is governed by the law in effect on the date of the
16 order, and the former law is continued in effect for that purpose.

17 (b) Section [261.307](#), Family Code, as amended by this Act,
18 applies only to an investigation of a report of child abuse or
19 neglect that is made on or after the effective date of this Act. An
20 investigation of a report of child abuse or neglect made before the
21 effective date of this Act is governed by the law in effect on the
22 date the report was made, and the former law is continued in effect
23 for that purpose.

24 (c) Section [262.206](#), Family Code, as amended by this Act,
25 applies only to an ex parte hearing held on or after the effective
26 date of this Act. An ex parte hearing held before that date is
27 governed by the law in effect on the date the ex parte hearing was

1 held, and the former law is continued in effect for that purpose.

2 (d) Section 264.902, Family Code, as amended by this Act,
3 applies only to a parental child safety placement agreement
4 executed on or after the effective date of this Act. A parental
5 child safety placement agreement executed before the effective date
6 of this Act is governed by the law in effect on the date the
7 agreement was executed, and the former law is continued in effect
8 for that purpose.

9 SECTION 11. This Act takes effect September 1, 2023.