

By: Frank

H.B. No. 730

Substitute the following for H.B. No. 730:

By: Dutton

C.S.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 legal counsel present or
26 without a court order;

27 (F) withhold consent to the release of any

1 medical or mental health records;

2 (G) withhold consent to any medical or
3 psychological examination of the child;

4 (H) refuse to submit to a drug test; and

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

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

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

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

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

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

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

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

1 (4) [~~(3)~~] an informational manual required by Section
2 261.3071.

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

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

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

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

22 SECTION 3. Section 262.206, Family Code, is reenacted and
23 amended to read as follows:

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

27 (b) A court that holds an ex parte hearing authorized by

1 this chapter shall prepare and keep a record of the hearing in the
2 form of an audio or video recording or a court reporter
3 transcription.

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

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

10 SECTION 4. Sections 264.203(e) and (n), Family Code, are
11 amended to read as follows:

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

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

16 (2) in the conservatorship of the department.

17 (n) If the court renders an order granting the petition, the
18 court shall:

19 (1) state its findings in the order;

20 (2) make appropriate temporary orders under Chapter
21 105 necessary to ensure the safety of the child, except that the
22 court may not issue a temporary order that places the child:

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

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

25 (3) order the participation in specific services
26 narrowly tailored to address the findings made by the court under
27 Subsection (m).

1 SECTION 5. Subchapter C, Chapter 264, Family Code, is
2 amended by adding Section 264.2032 to read as follows:

3 Sec. 264.2032. REPORT ON COURT-ORDERED PARTICIPATION IN
4 SERVICES. The department shall report the number of cases in which
5 a court under Section 264.203 orders the following persons with
6 respect to a child who is placed with a caregiver under a parental
7 child safety placement under Subchapter L to participate in
8 services:

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

13 SECTION 6. Section 264.901(2), Family Code, is amended to
14 read as follows:

15 (2) "Parental child safety placement" means any [a]
16 temporary out-of-home placement of a child with a caregiver that is
17 made by a parent or other person with whom the child resides in
18 accordance with a written agreement approved by the department that
19 ensures the safety of the child:

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

22 (B) while the parent or other person is receiving
23 services from the department.

24 SECTION 7. Section 264.902, Family Code, is amended by
25 amending Subsection (a) and adding Subsections (e), (f), (g), (h),
26 (i), and (j) to read as follows:

27 (a) A parental child safety placement agreement must

1 include terms that clearly state:

2 (1) the respective duties of the person making the
3 placement and the caregiver, including a plan for how the caregiver
4 will access necessary medical treatment for the child and the
5 caregiver's duty to ensure that a school-age child is enrolled in
6 and attending school;

7 (2) conditions under which the person placing the
8 child may have access to the child, including how often the person
9 may visit and the circumstances under which the person's visit may
10 occur;

11 (3) the duties of the department;

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

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

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

22 (f) An initial parental child safety placement agreement
23 automatically terminates on the earlier of the 30th day after the
24 date:

25 (1) the agreement is signed; or

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

27 (g) On the expiration of a parental child safety placement

1 agreement, the department may for good cause enter into not more
2 than two additional parental child safety placement agreements for
3 the child. On entering an additional parental child safety
4 placement agreement under this subsection, the department shall:

5 (1) reevaluate the terms and conditions of the
6 original agreement; and

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

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

9 (B) be represented by an attorney or a
10 court-appointed attorney if:

11 (i) the parent is indigent; and

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

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

17 (i) Notwithstanding Subsections (g) and (h), the department
18 may not place a child outside of the child's home under a parental
19 child safety placement for longer than 90 calendar days unless the
20 parental child safety placement agreement is signed by both the
21 parent and the parent's attorney or a court otherwise renders an
22 order regarding the placement under Chapter 262. This subsection
23 may not be construed to affect the duration of an agreement between
24 the department and the parent other than a parental child safety
25 placement agreement.

26 (j) A parental child safety placement agreement must
27 include the following language: "THIS AGREEMENT IS ENTIRELY

1 VOLUNTARY. THE AGREEMENT MAY NOT LAST LONGER THAN 30 DAYS. THE
2 AGREEMENT MAY BE RENEWED NOT MORE THAN TWO TIMES AND FOR NOT MORE
3 THAN 30 DAYS EACH TIME. A CHILD MAY NOT BE PLACED OUTSIDE OF THE
4 CHILD'S HOME FOR LONGER THAN A TOTAL OF 90 CALENDAR DAYS WITHOUT A
5 SIGNED AGREEMENT BY THE CHILD'S PARENT AND THE PARENT'S ATTORNEY OR
6 A COURT ORDER RENDERED UNDER CHAPTER 262."

7 SECTION 8. Subchapter L, Chapter 264, Family Code, is
8 amended by adding Section 264.907 to read as follows:

9 Sec. 264.907. INCLUSIONS IN REPORTS OF PARENTAL CHILD
10 SAFETY PLACEMENTS. The department shall, where appropriate:

11 (1) include children who are placed with a caregiver
12 under a parental child safety placement agreement in any report,
13 including reports submitted to the United States Department of
14 Health and Human Services or another federal agency, in which the
15 department is required to report the number of children in the child
16 protective services system who are removed from the children's
17 homes; and

18 (2) report the information described by Subdivision
19 (1) separately from information regarding the number of children
20 removed under a suit filed under Section 262.101 or 262.105.

21 SECTION 9. (a) Section 261.303, Family Code, as amended by
22 this Act, applies only to an order rendered on or after the
23 effective date of this Act. An order rendered before the effective
24 date of this Act is governed by the law in effect on the date of the
25 order, and the former law is continued in effect for that purpose.

26 (b) Section 261.307, Family Code, as amended by this Act,
27 applies only to an investigation of a report of child abuse or

1 neglect that is made on or after the effective date of this Act. An
2 investigation of a report of child abuse or neglect made before the
3 effective date of this Act is governed by the law in effect on the
4 date the report was made, and the former law is continued in effect
5 for that purpose.

6 (c) Section 262.206, Family Code, as amended by this Act,
7 applies only to an ex parte hearing held on or after the effective
8 date of this Act. An ex parte hearing held before that date is
9 governed by the law in effect on the date the ex parte hearing was
10 held, and the former law is continued in effect for that purpose.

11 (d) Section 264.902, Family Code, as amended by this Act,
12 applies only to a parental child safety placement agreement
13 executed on or after the effective date of this Act. A parental
14 child safety placement agreement executed before the effective date
15 of this Act is governed by the law in effect on the date the
16 agreement was executed, and the former law is continued in effect
17 for that purpose.

18 SECTION 10. This Act takes effect September 1, 2023.