

By: Frank

H.B. No. 730

A BILL TO BE ENTITLED

AN ACT

relating to procedures and standards for certain investigations and suits affecting the parent child relationship.

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

SECTION 1. Chapter 105, Family Code, is amended by adding Section 105.010 to read as follows:

Sec. 105.010. BEST INTEREST OF THE CHILD. In a suit between a parent and a non-parent under this title, it is a rebuttable presumption that it is in a child's best interest to be raised by the child's parents and that a parent's decisions are in the best interest of the child.

SECTION 2. Section 261.303, Family Code, is amended by amending Subsections (b) and (c) and adding Subsection (f) to read as follows:

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

(c) If a parent or person responsible for the child's care does not consent to release of the child's prior medical,

1 psychological, or psychiatric records or to a medical,  
2 psychological, or psychiatric examination of the child that is  
3 requested by the department, and the court having family law  
4 jurisdiction finds probable cause to believe that release or  
5 examination is necessary to protect the child from abuse or  
6 neglect, then the court shall, ~~for good cause shown,~~ order the  
7 records to be released or the examination to be made at the times  
8 and places designated by the court.

9 (f) An order described by subsections (b) or (c) may only be  
10 issued after notice and a hearing. The hearing may not be ex parte  
11 unless the court finds probable cause to believe that there is an  
12 immediate risk to the physical health or safety of the child and  
13 there is no time, consistent with the physical health or safety of  
14 the child, for a full hearing.

15 SECTION 3. Section 261.307, Family Code, is amended to read  
16 as follows:

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

- 22 (1) a 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;

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

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

17 (iv) the person's right to seek legal  
18 counsel;

19 (v) references to the statutory and  
20 regulatory provisions governing child abuse and neglect and how the  
21 person may obtain copies of those provisions; ~~and~~

22 (vi) the process the person may use to  
23 acquire access to the child if the child is removed from the home;  
24 and

25 (vii) the rights listed under Subdivision  
26 (2);

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

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

3                   (B) assistance by an attorney;

4                   (C) have a court-appointed attorney if the person  
5 is indigent;

6                   (D) record any interaction or interview subject  
7 to the understanding that the recording may be disclosed to the  
8 department, law enforcement, or another party under a court order;

9                   (E) refuse to allow the investigator to enter the  
10 home or interview the children without legal counsel present;

11                   (F) withhold consent to the release of any  
12 medical or mental health records;

13                   (G) withhold consent to any medical or  
14 psychological examination of the child;

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

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

18                   (3) if the department determines that removal of the  
19 child may be warranted, a proposed child placement resources form  
20 that:

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

23                               (i) complete and return the form to the  
24 department or agency;

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

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

5 (iv) list on the form the name of each  
6 individual identified by the child as a potential relative  
7 caregiver or designated caregiver; and

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

12 (4) [~~(3)~~] an informational manual required by Section  
13 [261.3071](#).

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

17 (c) The department shall adopt a form for the purpose of  
18 verifying that the parent or other person having legal custody of  
19 the child received the verbal notification and written summary  
20 required by this section.

21 SECTION 4. Section [262.206](#), Family Code, is amended to read  
22 as follows:

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

26 (b) An ex parte hearing held under this Chapter must be  
27 recorded by a court reporter or by audio or video tape recording.

1        (c) The record of an ex parte hearing held under this  
2 Chapter must be made available to all parties to the suit upon  
3 request.

4        SECTION 5. Section 263.307, Family Code, is amended by  
5 adding Subsection (a-1) to read as follows:

6        (a-1) The presumption described by Section 105.010 shall be  
7 the court's primary consideration.

8        SECTION 6. Section 264.902, Family Code, is amended by  
9 amending Subsection (a) and adding Subsections (e), (f), and (g) to  
10 read as follows:

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

13            (1) the respective duties of the person making the  
14 placement and the caregiver, including a plan for how the caregiver  
15 will access necessary medical treatment for the child and the  
16 caregiver's duty to ensure that a school-age child is enrolled in  
17 and attending school;

18            (2) conditions under which the person placing the  
19 child may have access to the child, including how often the person  
20 may visit and the circumstances under which the person's visit may  
21 occur;

22            (3) the duties of the department;

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

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

1       (e) The department must notify the parent, caregiver, or  
2 other person with whom the child resides of their right to consult  
3 with an attorney before entering into a parental child safety  
4 placement agreement and provide the parent, caregiver, or other  
5 person with whom the child resides with a reasonable time in which  
6 to do so.

7               (1) If the parent or caregiver exercises their right  
8 to consult with an attorney, the department may continue to monitor  
9 the child to ensure the child's safety.

10              (2) If the parent or caregiver waives their right to  
11 consult with an attorney prior to entering into the agreement, the  
12 agreement shall include language stating that the parent or  
13 caregiver waived this right.

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

17                   (1) the agreement is signed; or

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

19       (g) On the expiration of a parental child safety placement  
20 agreement, the department may for good cause enter into not more  
21 than one additional parental child safety placement agreement for  
22 the child. On entering the parental child safety placement  
23 agreement, the department shall:

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

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

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

1           (B) be represented by an attorney or a  
2 court-appointed attorney if the parent is indigent and if the  
3 department subsequently seeks a court order to require the parents  
4 to participate in services.

5           SECTION 7. Subchapter L, Chapter 264, Family Code, is  
6 amended by adding Sections 264.907 and 264.908 to read as follows:

7           Sec. 264.907. INCLUSIONS IN REPORTS OF PARENTAL CHILD  
8 SAFETY PLACEMENTS. The department shall include children who are  
9 placed with a caregiver under a parental child safety placement  
10 agreement in any report, including reports submitted to the United  
11 States Department of Health and Human Services or another federal  
12 agency, in which the department is required to report the number of  
13 children in the child protective services system who are removed  
14 from the children's homes.

15           Sec. 264.908. REPORT ON COURT-ORDERED PARTICIPATION IN  
16 SERVICES. The department shall report the number of cases in which  
17 a court under Section 264.203 orders the parent, managing  
18 conservator, guardian, or other member of the child's household of  
19 a child who is placed with a caregiver under a parental child safety  
20 placement to participate in services.

21           SECTION 8. Section 105.010, Family Code, as added by this  
22 Act applies only to an order rendered in a suit affecting the  
23 parent-child relationship on or after the effective date of this  
24 Act. An order rendered in a suit affecting the parent-child  
25 relationship before that date is governed by the law in effect on  
26 the date the suit was filed, and the former law is continued in  
27 effect for that purpose.



1           SECTION 9. Section 261.303, Family Code, as amended by this  
2 Act applies only to orders in aid of investigation requested on or  
3 after the effective date of this Act. An order in aid of  
4 investigation requested before the effective date of this Act is  
5 governed by the law in effect on the date the order was rendered,  
6 and the former law is continued in effect for that purpose.

7           SECTION 10. Section 261.307, Family Code, as amended by  
8 this Act applies only to an investigation of a report of child abuse  
9 or neglect that is made on or after the effective date of this Act.  
10 An investigation of a report of abuse or neglect made before the  
11 effective date of this Act is governed by the law in effect on the  
12 date the report was made, and the former law is continued in effect  
13 for that purpose.

14           SECTION 11. Section 262.206, Family Code, as amended by  
15 this Act applies only to an ex parte hearing held on or after the  
16 effective date of this Act. An ex parte hearing held before the  
17 effective date of this Act is governed by the law as it existed  
18 immediately before the effective date of this Act, and that law is  
19 continued in effect for that purpose.

20           SECTION 12. Section 264.902, Family Code, as amended by  
21 this Act and Sections 264.907 and 264.908, Family Code, as added by  
22 this Act apply only to parental child safety placement agreements  
23 executed on or before the effective date of this Act. Parental  
24 child safety placement agreements executed before the effective  
25 date of this Act are governed by the law as it existed immediately  
26 before the effective date of this Act, and that law is continued in  
27 effect for that purpose.

1 SECTION 13. This Act takes effect September 1, 2023.