

1-1 By: Frank, et al. (Senate Sponsor - Hughes) H.B. No. 730  
 1-2 (In the Senate - Received from the House May 2, 2023;  
 1-3 May 4, 2023, read first time and referred to Committee on Health &  
 1-4 Human Services; May 11, 2023, reported favorably by the following  
 1-5 vote: Yeas 7, Nays 2; May 11, 2023, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14		X		
1-15		X		
1-16	X			

1-17 A BILL TO BE ENTITLED  
 1-18 AN ACT

1-19 relating to policies and procedures regarding certain suits  
 1-20 affecting the parent-child relationship, investigations by the  
 1-21 Department of Family and Protective Services, and parental child  
 1-22 safety placements.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Section 261.303, Family Code, is amended by  
 1-25 amending Subsections (b) and (c) and adding Subsections (f), (g),  
 1-26 and (h) to read as follows:

1-27 (b) If admission to the home, school, or any place where the  
 1-28 child may be cannot be obtained, and if [then for good cause shown]  
 1-29 the court having family law jurisdiction has probable cause to  
 1-30 believe that admission is necessary to protect the child from abuse  
 1-31 or neglect, then the court shall order the parent, the person  
 1-32 responsible for the care of the children, or the person in charge of  
 1-33 any place where the child may be to allow entrance for the  
 1-34 interview, examination, and investigation.

1-35 (c) If a parent or person responsible for the child's care  
 1-36 does not consent to release of the child's prior medical,  
 1-37 psychological, or psychiatric records or to a medical,  
 1-38 psychological, or psychiatric examination of the child that is  
 1-39 requested by the department, and if the court having family law  
 1-40 jurisdiction has probable cause to believe that releasing the  
 1-41 records or conducting an examination of the child is necessary to  
 1-42 protect the child from abuse or neglect, then the court shall[, for  
 1-43 good cause shown,] order the records to be released or the  
 1-44 examination to be made at the times and places designated by the  
 1-45 court.

1-46 (f) A hearing for an order under this section may not be ex  
 1-47 parte unless the court has probable cause to believe there is no  
 1-48 time, consistent with the physical health or safety of the child,  
 1-49 for a full hearing.

1-50 (g) A court order described by Subsection (b) or (c) must  
 1-51 include the court's findings regarding the sufficiency of evidence  
 1-52 supporting the order.

1-53 (h) On request of a party to the suit, the court shall  
 1-54 provide a copy of an order rendered under this section to the party.

1-55 SECTION 2. Section 261.307, Family Code, is amended to read  
 1-56 as follows:

1-57 Sec. 261.307. INFORMATION RELATING TO INVESTIGATION  
 1-58 PROCEDURE AND CHILD PLACEMENT RESOURCES. (a) After [As soon as  
 1-59 possible after] initiating an investigation of a parent or other  
 1-60 person having legal custody of a child, the department shall, upon  
 1-61 first contact with the parent or with the alleged perpetrator,

2-1 provide to the person:

2-2 (1) a written summary that:

2-3 (A) is brief and easily understood;

2-4 (B) is written in a language that the person  
2-5 understands, or if the person is illiterate, is read to the person  
2-6 in a language that the person understands; and

2-7 (C) contains the following information:

2-8 (i) the department's procedures for  
2-9 conducting an investigation of alleged child abuse or neglect,  
2-10 including:

2-11 (a) a description of the  
2-12 circumstances under which the department would request to remove  
2-13 the child from the home through the judicial system; ~~and~~

2-14 (b) an explanation that the law  
2-15 requires the department to refer all reports of alleged child abuse  
2-16 or neglect to a law enforcement agency for a separate determination  
2-17 of whether a criminal violation occurred; and

2-18 (c) an explanation that any statement  
2-19 or admission made by the person to anyone may be used against the  
2-20 person in a criminal case, as a basis to remove the child who is the  
2-21 subject of the investigation or any other child from the person's  
2-22 care, custody, and control either temporarily or permanently, or as  
2-23 a basis to terminate the person's relationship with the child who is  
2-24 the subject of the investigation or any other child;

2-25 (ii) the person's right to file a complaint  
2-26 with the department or to request a review of the findings made by  
2-27 the department in the investigation;

2-28 (iii) the person's right to review all  
2-29 records of the investigation unless the review would jeopardize an  
2-30 ongoing criminal investigation or the child's safety;

2-31 (iv) the person's right to seek legal  
2-32 counsel;

2-33 (v) references to the statutory and  
2-34 regulatory provisions governing child abuse and neglect and how the  
2-35 person may obtain copies of those provisions; ~~and~~

2-36 (vi) the process the person may use to  
2-37 acquire access to the child if the child is removed from the home;

2-38 (vii) the rights listed under Subdivision  
2-39 (2); and

2-40 (viii) the known allegations the department  
2-41 is investigating;

2-42 (2) a verbal notification of the right to:

2-43 (A) not speak with any agent of the department  
2-44 without legal counsel present;

2-45 (B) receive assistance from an attorney;

2-46 (C) have a court-appointed attorney if:

2-47 (i) the person is indigent;

2-48 (ii) the person is the parent of the child;

2-49 and

2-50 (iii) the department seeks a court order in  
2-51 a suit filed under Section 262.101 or 262.105 or a court order  
2-52 requiring the person to participate in services under Section  
2-53 264.203;

2-54 (D) record any interaction or interview subject  
2-55 to the understanding that the recording may be subject to  
2-56 disclosure to the department, law enforcement, or another party  
2-57 under a court order;

2-58 (E) refuse to allow the investigator to enter the  
2-59 home or interview the child without a court order;

2-60 (F) have legal counsel present before allowing  
2-61 the investigator to enter the home or interview the child;

2-62 (G) withhold consent to the release of any  
2-63 medical or mental health records;

2-64 (H) withhold consent to any medical or  
2-65 psychological examination of the child;

2-66 (I) refuse to submit to a drug test; and

2-67 (J) consult with legal counsel prior to agreeing  
2-68 to any proposed voluntary safety plan;

2-69 (3) if the department determines that removal of the

3-1 child may be warranted, a proposed child placement resources form  
 3-2 that:

3-3 (A) instructs the parent or other person having  
 3-4 legal custody of the child to:

3-5 (i) complete and return the form to the  
 3-6 department or agency;

3-7 (ii) identify in the form at least three  
 3-8 individuals who could be relative caregivers or designated  
 3-9 caregivers, as those terms are defined by Section 264.751;

3-10 (iii) ask the child in a developmentally  
 3-11 appropriate manner to identify any adult, particularly an adult  
 3-12 residing in the child's community, who could be a relative  
 3-13 caregiver or designated caregiver for the child; and

3-14 (iv) list on the form the name of each  
 3-15 individual identified by the child as a potential relative  
 3-16 caregiver or designated caregiver; and

3-17 (B) informs the parent or other person of a  
 3-18 location that is available to the parent or other person to submit  
 3-19 the information in the form 24 hours a day either in person or by  
 3-20 facsimile machine or e-mail; and

3-21 (4) [~~(3)~~] an informational manual required by Section  
 3-22 261.3071.

3-23 (b) The child placement resources form described by  
 3-24 Subsection (a)(3) [~~(a)(2)~~] must include information on the periods  
 3-25 of time by which the department must complete a background check.

3-26 (c) The department investigator shall document that the  
 3-27 investigator provided the verbal notification required by  
 3-28 Subsection (a)(2).

3-29 (d) The department shall adopt a form for the purpose of  
 3-30 verifying that the parent or other person having legal custody of  
 3-31 the child received the verbal notification and written summary  
 3-32 required by this section. The department shall provide a true and  
 3-33 correct copy of the signed form to the person who is the subject of  
 3-34 the investigation or that person's attorney, if represented by an  
 3-35 attorney.

3-36 (e) If a person who is the subject of an investigation does  
 3-37 not receive the verbal notification and written summary required by  
 3-38 this section, any information obtained from the person, and any  
 3-39 other information that would not have been discovered without that  
 3-40 information, is not admissible for use against the person in any  
 3-41 civil proceeding.

3-42 SECTION 3. Subchapter D, Chapter 261, Family Code, is  
 3-43 amended by adding Section 261.3081 to read as follows:

3-44 Sec. 261.3081. NOTICE REGARDING CHANGES MADE BY DEPARTMENT  
 3-45 TO INVESTIGATION REPORT. The department shall notify the following  
 3-46 interested parties of any edits or corrections, other than edits or  
 3-47 corrections to remedy spelling or grammatical errors, the  
 3-48 department makes to the written report prepared by the department  
 3-49 under Section 261.308:

3-50 (1) the child's parent;

3-51 (2) the attorney for the child's parent if represented  
 3-52 by an attorney;

3-53 (3) an attorney ad litem for the child appointed under  
 3-54 Chapter 107;

3-55 (4) a guardian ad litem for the child appointed under  
 3-56 Chapter 107, including a volunteer advocate; and

3-57 (5) any other person the court determines has an  
 3-58 interest in the child's welfare.

3-59 SECTION 4. Section 262.206, Family Code, is reenacted and  
 3-60 amended to read as follows:

3-61 Sec. 262.206. EX PARTE HEARINGS [~~PROHIBITED~~]. (a) Unless  
 3-62 otherwise authorized by this chapter or other law, a hearing held by  
 3-63 a court in a suit under this chapter may not be ex parte.

3-64 (b) A court that holds an ex parte hearing authorized by  
 3-65 this chapter shall prepare and keep a record of the hearing in the  
 3-66 form of an audio or video recording or a court reporter  
 3-67 transcription.

3-68 (c) On request of a party to the suit, the court shall  
 3-69 provide a copy of the record of an ex parte hearing to the party.

4-1 (d) The Department of Family and Protective Services shall  
 4-2 provide notice of an ex parte hearing authorized by this chapter if  
 4-3 the department has received notice that a parent who is a party is  
 4-4 represented by an attorney.

4-5 SECTION 5. Sections 264.203(e) and (n), Family Code, are  
 4-6 amended to read as follows:

4-7 (e) In a suit filed under this section, the court may render  
 4-8 a temporary restraining order as provided by Section 105.001,  
 4-9 except that the court may not issue an order that places the child:

- 4-10 (1) outside of the child's home; or
- 4-11 (2) in the conservatorship of the department.

4-12 (n) If the court renders an order granting the petition, the  
 4-13 court shall:

- 4-14 (1) state its findings in the order;
- 4-15 (2) make appropriate temporary orders under Chapter
- 4-16 105 necessary to ensure the safety of the child, except that the  
 4-17 court may not issue a temporary order that places the child:

- 4-18 (A) outside of the child's home; or
- 4-19 (B) in the conservatorship of the department; and

4-20 (3) order the participation in specific services  
 4-21 narrowly tailored to address the findings made by the court under  
 4-22 Subsection (m).

4-23 SECTION 6. Subchapter C, Chapter 264, Family Code, is  
 4-24 amended by adding Section 264.2032 to read as follows:

4-25 Sec. 264.2032. REPORT ON COURT-ORDERED PARTICIPATION IN  
 4-26 SERVICES. The department shall report the number of cases in which  
 4-27 a court under Section 264.203 orders the following persons with  
 4-28 respect to a child who is placed with a caregiver under a parental  
 4-29 child safety placement under Subchapter L to participate in  
 4-30 services:

- 4-31 (1) the child's parent;
- 4-32 (2) the child's managing conservator;
- 4-33 (3) the child's guardian; or
- 4-34 (4) another member of the child's household.

4-35 SECTION 7. Section 264.901(2), Family Code, is amended to  
 4-36 read as follows:

4-37 (2) "Parental child safety placement" means any [~~a~~]  
 4-38 temporary out-of-home placement of a child with a caregiver that is  
 4-39 made by a parent or other person with whom the child resides in  
 4-40 accordance with a written agreement approved by the department that  
 4-41 ensures the safety of the child:

- 4-42 (A) during an investigation by the department of
- 4-43 alleged abuse or neglect of the child; or
- 4-44 (B) while the parent or other person is receiving
- 4-45 services from the department.

4-46 SECTION 8. Section 264.902, Family Code, is amended by  
 4-47 amending Subsection (a) and adding Subsections (e), (f), (g), (h),  
 4-48 (i), and (j) to read as follows:

4-49 (a) A parental child safety placement agreement must  
 4-50 include terms that clearly state:

- 4-51 (1) the respective duties of the person making the
- 4-52 placement and the caregiver, including a plan for how the caregiver
- 4-53 will access necessary medical treatment for the child and the
- 4-54 caregiver's duty to ensure that a school-age child is enrolled in
- 4-55 and attending school;
- 4-56 (2) conditions under which the person placing the
- 4-57 child may have access to the child, including how often the person
- 4-58 may visit and the circumstances under which the person's visit may
- 4-59 occur;
- 4-60 (3) the duties of the department;
- 4-61 (4) subject to Subsection (f), the date on which the
- 4-62 agreement will terminate unless terminated sooner or extended to a
- 4-63 subsequent date as provided under department policy; and
- 4-64 (5) any other term the department determines necessary
- 4-65 for the safety and welfare of the child.

4-66 (e) Before a parent or other person making a parental child  
 4-67 safety placement and the caregiver enter into a parental child  
 4-68 safety placement agreement, the department shall notify each person  
 4-69 of the person's right to consult with an attorney and provide the

5-1 person with a reasonable time in which to do so.

5-2 (f) An initial parental child safety placement agreement  
5-3 automatically terminates on the earlier of the 30th day after the  
5-4 date:

5-5 (1) the agreement is signed; or

5-6 (2) the child is placed with the caregiver.

5-7 (g) On the expiration of a parental child safety placement  
5-8 agreement, the department may for good cause enter into not more  
5-9 than two additional parental child safety placement agreements for  
5-10 the child. On entering an additional parental child safety  
5-11 placement agreement under this subsection, the department shall:

5-12 (1) reevaluate the terms and conditions of the  
5-13 original agreement; and

5-14 (2) notify the parents of their right to:

5-15 (A) refuse to enter into the agreement; and

5-16 (B) be represented by an attorney or a  
5-17 court-appointed attorney if:

5-18 (i) the parent is indigent; and

5-19 (ii) the department subsequently seeks a  
5-20 court order to require the parents to participate in services.

5-21 (h) An additional parental child safety placement agreement  
5-22 described by Subsection (g) automatically terminates on the 30th  
5-23 day after the date the agreement is signed.

5-24 (i) Notwithstanding Subsections (g) and (h), the department  
5-25 may not place a child outside of the child's home under a parental  
5-26 child safety placement for longer than 90 calendar days unless the  
5-27 parental child safety placement agreement is signed by both the  
5-28 parent and the parent's attorney or a court otherwise renders an  
5-29 order regarding the placement under Chapter 262. This subsection  
5-30 may not be construed to affect the duration of an agreement between  
5-31 the department and the parent other than a parental child safety  
5-32 placement agreement.

5-33 (j) A parental child safety placement agreement must  
5-34 include the following language: "THIS AGREEMENT IS ENTIRELY  
5-35 VOLUNTARY. THE AGREEMENT MAY NOT LAST LONGER THAN 30 DAYS. THE  
5-36 AGREEMENT MAY BE RENEWED NOT MORE THAN TWO TIMES AND FOR NOT MORE  
5-37 THAN 30 DAYS EACH TIME. A CHILD MAY NOT BE PLACED OUTSIDE OF THE  
5-38 CHILD'S HOME FOR LONGER THAN A TOTAL OF 90 CALENDAR DAYS WITHOUT A  
5-39 SIGNED AGREEMENT BY THE CHILD'S PARENT AND THE PARENT'S ATTORNEY OR  
5-40 A COURT ORDER RENDERED UNDER CHAPTER 262."

5-41 SECTION 9. Subchapter L, Chapter 264, Family Code, is  
5-42 amended by adding Section 264.907 to read as follows:

5-43 Sec. 264.907. INCLUSIONS IN REPORTS OF PARENTAL CHILD  
5-44 SAFETY PLACEMENTS. The department shall, where appropriate:

5-45 (1) include children who are placed with a caregiver  
5-46 under a parental child safety placement agreement in any report,  
5-47 including reports submitted to the United States Department of  
5-48 Health and Human Services or another federal agency, in which the  
5-49 department is required to report the number of children in the child  
5-50 protective services system who are removed from the children's  
5-51 homes; and

5-52 (2) report the information described by Subdivision  
5-53 (1) separately from information regarding the number of children  
5-54 removed under a suit filed under Section 262.101 or 262.105.

5-55 SECTION 10. (a) Section 261.303, Family Code, as amended by  
5-56 this Act, applies only to an order rendered on or after the  
5-57 effective date of this Act. An order rendered before the effective  
5-58 date of this Act is governed by the law in effect on the date of the  
5-59 order, and the former law is continued in effect for that purpose.

5-60 (b) Section 261.307, Family Code, as amended by this Act,  
5-61 applies only to an investigation of a report of child abuse or  
5-62 neglect that is made on or after the effective date of this Act. An  
5-63 investigation of a report of child abuse or neglect made before the  
5-64 effective date of this Act is governed by the law in effect on the  
5-65 date the report was made, and the former law is continued in effect  
5-66 for that purpose.

5-67 (c) Section 262.206, Family Code, as amended by this Act,  
5-68 applies only to an ex parte hearing held on or after the effective  
5-69 date of this Act. An ex parte hearing held before that date is

6-1 governed by the law in effect on the date the ex parte hearing was  
6-2 held, and the former law is continued in effect for that purpose.

6-3 (d) Section 264.902, Family Code, as amended by this Act,  
6-4 applies only to a parental child safety placement agreement  
6-5 executed on or after the effective date of this Act. A parental  
6-6 child safety placement agreement executed before the effective date  
6-7 of this Act is governed by the law in effect on the date the  
6-8 agreement was executed, and the former law is continued in effect  
6-9 for that purpose.

6-10 SECTION 11. This Act takes effect September 1, 2023.

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