

By: Hull

H.B. No. 1086

Substitute the following for H.B. No. 1086:

By: Dutton

C.S.H.B. No. 1086

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to policies and procedures regarding certain  
3 investigations by the Department of Family and Protective Services  
4 and certain suits affecting the parent-child relationship.

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

6 SECTION 1. Section 261.303, Family Code, is amended by  
7 amending Subsection (b) and adding Subsections (b-1), (b-2), and  
8 (b-3) to read as follows:

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

17 (b-1) A court may not issue an order described by Subsection  
18 (b) unless the court is presented with facts sufficient to satisfy  
19 the court that there is probable cause to believe that the order is  
20 necessary due to an immediate risk to the child's safety. A  
21 separate sworn affidavit setting forth substantial facts  
22 establishing probable cause for admission to a location under  
23 Subsection (b) and for what purpose the admission is necessary must  
24 be filed for each location for which admission is requested under

1 that subsection.

2 (b-2) A hearing for an order under Subsection (b) may not be  
3 ex parte unless the court has probable cause to believe that an  
4 immediate risk to the physical health or safety of the child makes  
5 it impracticable to hold a full hearing.

6 (b-3) A court that holds an ex parte hearing authorized by  
7 Subsection (b-2) shall prepare and keep a record of the hearing in  
8 the form of an audio recording or court reporter transcription. The  
9 court shall maintain a copy of any electronic communication that  
10 occurred in place of an in-person hearing. On request of a party to  
11 the suit, the court shall provide a copy of the record of an ex parte  
12 hearing to the party.

13 SECTION 2. Section 262.106, Family Code, is amended by  
14 amending Subsection (b) and adding Subsections (b-1) and (b-2) to  
15 read as follows:

16 (b) The initial hearing may be ex parte and proof may be by  
17 sworn petition or affidavit only if a full adversary hearing is not  
18 practicable.

19 (b-1) A court that holds an ex parte hearing authorized by  
20 Subsection (b) shall prepare and keep a record of the hearing in the  
21 form of an audio or video recording or a court reporter  
22 transcription. The court shall maintain a copy of any electronic  
23 communication that occurred in place of an in-person hearing.

24 (b-2) On request of a party to the suit, the court shall  
25 provide a copy of the record of an ex parte hearing to the party.

26 SECTION 3. (a) Section 261.303, Family Code, as amended by  
27 this Act, applies only to an order rendered on or after the

1 effective date of this Act. An order rendered before the effective  
2 date of this Act is governed by the law in effect on the date of the  
3 order, and the former law is continued in effect for that purpose.

4 (b) Section 262.106, Family Code, as amended by this Act,  
5 applies only to an ex parte hearing held on or after the effective  
6 date of this Act. An ex parte hearing held before that date is  
7 governed by the law in effect on the date the ex parte hearing was  
8 held, and the former law is continued in effect for that purpose.

9 SECTION 4. This Act takes effect immediately if it receives  
10 a vote of two-thirds of all the members elected to each house, as  
11 provided by Section 39, Article III, Texas Constitution. If this  
12 Act does not receive the vote necessary for immediate effect, this  
13 Act takes effect September 1, 2023.