

By: Frank

H.B. No. 5030

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the definition of neglect of a child and suits affecting  
3 the parent-child relationship in which the Department of Family and  
4 Protective Services central is appointed joint managing  
5 conservator with the parent.

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

7 SECTION 1. Section 261.001(4)(B)(i), Family Code, is  
8 amended to read as follows:

9 (i) the refusal by a person responsible for a child's  
10 care, custody, or welfare to permit the child to remain in or return  
11 to the child's home resulting in the placement of the child in the  
12 joint managing conservatorship of the department pursuant to  
13 section 262.352 if:

14 (a) the child has a severe emotional  
15 disturbance;

16 (b) the person's refusal is based solely on  
17 the person's inability to obtain mental health services necessary  
18 to protect the safety and well-being of the child; and

19 (c) the person has exhausted all reasonable  
20 means available to the person to obtain the mental health services  
21 described by Sub-subparagraph (b).

22 SECTION 2. Section 262.352, Family Code, is amended to read  
23 as follows:

24 (b) ~~Expired.~~ Before a court may enter an order appointing the

1 department as the child's joint managing conservator with the  
2 parent or legal guardian, the court must find sufficient evidence  
3 to satisfy a person of ordinary prudence and caution that:

4 (1) the parent or legal guardian has exhausted all  
5 reasonable means available to the parent or legal guardian to  
6 obtain mental health services to meet the child's needs;

7 (2) the department is able to provide the services  
8 necessary to meet the child's mental health needs;

9 (3) the department has identified an available  
10 licensed placement for the child that can meet the child's mental  
11 health needs;

12 (4) the parent or legal guardian has agreed to  
13 actively participate in the child's service plan in preparation for  
14 the child's return home; and

15 (5) the orders appointing the parent and the  
16 department as the child's joint managing conservators is in the  
17 child's best interest.

18 (c) ~~Expired.~~ Unless the court finds that the parent is  
19 indigent, the court shall order child support and medical support  
20 to be paid to the department in the amount equal to the cost of care  
21 to offset the cost of the child's placement and medical care.

22 (d) A child in the joint managing conservatorship of the  
23 parent or legal guardian and the department shall not receive  
24 temporary emergency care under Section 264.107(g) in a hotel or  
25 other unlicensed setting.

26 (e) If the department has not identified an available  
27 licensed placement for the child that can meet the child's mental

1 health needs, the court shall either:

2 (i) Order that the child be placed with the  
3 parent or legal guardian until another available licensed setting  
4 is identified by the department, or

5 (ii) Discharge the department as the child's  
6 joint managing conservator and dismiss the suit affecting the  
7 parent-child relationship.

8 SECTION 2. This Act takes effect September 1, 2023.