

By: Middleton

S.B. No. 2548

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the procedures for the removal of certain children in  
3 the managing conservatorship of the Department of Family and  
4 Protective Services.

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

6 SECTION 1. Section 263.403, Family Code, is amended by  
7 amending Subsection (c) and adding Subsections (c-1), (c-2), and  
8 (c-3) to read as follows:

9 (c) If before the dismissal of the suit or the commencement  
10 of the trial on the merits a child placed with a parent under this  
11 section must be moved from that home and ~~[by the department or]~~ the  
12 court renders a temporary order terminating the monitored return  
13 under Subsection (a)(2)(A) or the transition order issued under  
14 Subsection (a)(2)(B), the court shall~~[, at the time of the move or~~  
15 ~~order,~~ ] schedule a new date for dismissal of the suit at the time  
16 the order is rendered. The new dismissal date may not be later than  
17 the original, or extended, dismissal date established under Section  
18 263.401, or the 30th ~~[180th]~~ day after the date ~~[the child is moved~~  
19 ~~or]~~ the order is rendered under this subsection, whichever date is  
20 later.

21 (c-1) Except as provided by Subsection (c-2), the  
22 department may not move a child who has been placed in the home of a  
23 parent under this section from that home without a hearing.

24 (c-2) An authorized representative of the department, a law

1 enforcement officer, or a juvenile probation officer may take  
2 possession of the child and move the child from the home in an  
3 emergency in accordance with Section 262.104. Before moving a child  
4 from the home under this subsection, the department, a law  
5 enforcement officer, or a juvenile probation officer shall to the  
6 extent practicable obtain consent to the move from the child's  
7 attorney ad litem and guardian ad litem. If a child is moved from  
8 the home in an emergency as authorized by this subsection, the court  
9 shall, after proper notice, hold a hearing on the move. The hearing  
10 must be held before the end of the third day after the day the child  
11 is moved from the home.

12 (c-3) The court may order a child to be moved from the home  
13 or render any other order under Subsection (c) only if, after a  
14 hearing, the court finds by a preponderance of evidence that:

15 (1) there is an immediate danger to the physical  
16 health or safety of the child or the child has been a victim of  
17 neglect or sexual abuse;

18 (2) continuation in the home would be contrary to the  
19 child's welfare; and

20 (3) reasonable efforts, consistent with the  
21 circumstances and providing for the safety of the child, were made  
22 to prevent or eliminate the need to move the child.

23 SECTION 2. The changes in law made by this Act apply only to  
24 a suit affecting the parent-child relationship filed on or after  
25 the effective date of this Act. A suit affecting the parent-child  
26 relationship filed before the effective date of this Act is  
27 governed by the law in effect on the date the suit was filed, and the

1 former law is continued in effect for that purpose.

2 SECTION 3. This Act takes effect September 1, 2023.