

By: _____Frank_____

H.B. No. _730_

Substitute the following for H.B. No. _730_:

By: _____

C.S.H.B. No. _730_

A BILL TO BE ENTITLED

AN ACT

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

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

SECTION 1. 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, and if ~~[then for good cause shown]~~ the court having family law jurisdiction finds by a preponderance of the evidence 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, psychological, or psychiatric records or to a medical, psychological, or psychiatric examination of the child that is requested by the department, and if the court having family law jurisdiction finds by a preponderance of the evidence that releasing the records or conducting an examination of the child is

1 necessary to protect the child from abuse or neglect, then the court
2 shall~~[, for good cause shown,]~~ order the records to be released or
3 the examination to be made at the times and places designated by the
4 court.

5 (f) A court may render an order described by Subsection (b)
6 or (c) only after notice and a hearing.

7 SECTION 2. Section 261.307, Family Code, is amended to read
8 as follows:

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

14 (1) a written summary that:

15 (A) is brief and easily understood;

16 (B) is written in a language that the person
17 understands, or if the person is illiterate, is read to the person
18 in a language that the person understands; and

19 (C) contains the following information:

20 (i) the department's procedures for
21 conducting an investigation of alleged child abuse or neglect,
22 including:

23 (a) a description of the
24 circumstances under which the department would request to remove
25 the child from the home through the judicial system; ~~[and]~~

26 (b) an explanation that the law
27 requires the department to refer all reports of alleged child abuse

1 or neglect to a law enforcement agency for a separate determination
2 of whether a criminal violation occurred; and

3 (c) an explanation that any statement
4 or admission made by the person to anyone may be used against the
5 person in a criminal case, as a basis to remove the child who is the
6 subject of the investigation or any other child from the person's
7 care, custody, and control either temporarily or permanently, or as
8 a basis to terminate the person's relationship with the child who is
9 the subject of the investigation or any other child;

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

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

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

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

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

23 (vii) the rights listed under Subdivision
24 (2); and

25 (viii) the allegations the department is
26 investigating;

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) receive assistance from an attorney;

4 (C) have a court-appointed attorney if:

5 (i) the person is indigent;

6 (ii) the person is the parent of the child;

7 and

8 (iii) the department seeks a court order in
9 a suit filed under Section 262.101 or 262.105 or a court order
10 requiring the person to participate in services under Section
11 264.203;

12 (D) record any interaction or interview subject
13 to the understanding that the recording may be subject to
14 disclosure to the department, law enforcement, or another party
15 under a court order;

16 (E) refuse to allow the investigator to enter the
17 home or interview the child without legal counsel present;

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

20 (G) withhold consent to any medical or
21 psychological examination of the child;

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

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

25 (3) if the department determines that removal of the
26 child may be warranted, a proposed child placement resources form
27 that:

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

3 (i) complete and return the form to the
4 department or agency;

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

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

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

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

19 (4) ~~[(3)]~~ an informational manual required by Section
20 261.3071.

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

24 (c) The department investigator shall document that the
25 investigator provided the verbal notification required by
26 Subsection (a)(2).

27 (d) The department shall adopt a form for the purpose of

1 verifying that the parent or other person having legal custody of
2 the child received the verbal notification and written summary
3 required by this section. The department shall provide a true and
4 correct copy of the signed form to the person who is the subject of
5 the investigation or that person's attorney, if represented by an
6 attorney.

7 (e) If a person who is the subject of an investigation does
8 not receive the verbal notification and written summary required by
9 this section, any information obtained from the person, and any
10 other information that would not have been discovered without that
11 information, is not admissible for use against the person in any
12 civil or criminal proceeding.

13 SECTION 3. Section 262.206, Family Code, is reenacted and
14 amended to read as follows:

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

18 (b) A court that holds an ex parte hearing authorized by
19 this chapter shall prepare and keep a record of the hearing in the
20 form of an audio or video recording or a court reporter
21 transcription.

22 (c) On request of a party to the suit, the court shall
23 provide a copy of the record of an ex parte hearing to the party.

24 (d) The department shall provide notice of an ex parte
25 hearing authorized by this chapter if the department has received
26 notice that a parent who is a party is represented by an attorney.

27 SECTION 4. Sections 264.203(e) and (n), Family Code, are

1 amended to read as follows:

2 (e) In a suit filed under this section, the court may not
3 order removal of a child from the child's home ~~[render a temporary~~
4 ~~restraining order as provided by Section 105.001]~~.

5 (n) If the court renders an order granting the petition, the
6 court shall:

7 (1) state its findings in the order; and

8 (2) ~~[make appropriate temporary orders under Chapter~~
9 ~~105 necessary to ensure the safety of the child; and~~

10 ~~[(3)]~~ order the participation in specific services
11 narrowly tailored to address the findings made by the court under
12 Subsection (m).

13 SECTION 5. Subchapter C, Chapter 264, Family Code, is
14 amended by adding Section 264.2032 to read as follows:

15 Sec. 264.2032. 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 following persons with
18 respect to a child who is placed with a caregiver under a parental
19 child safety placement under Subchapter L to participate in
20 services:

21 (1) the child's parent;

22 (2) the child's managing conservator;

23 (3) the child's guardian; or

24 (4) another member of the child's household.

25 SECTION 6. Section 264.901(2), Family Code, is amended to
26 read as follows:

27 (2) "Parental child safety placement" means any ~~[a]~~

1 temporary out-of-home placement of a child with a caregiver that is
2 made by a parent or other person with whom the child resides in
3 accordance with a written agreement approved by the department that
4 ensures the safety of the child:

5 (A) during an investigation by the department of
6 alleged abuse or neglect of the child; or

7 (B) while the parent or other person is receiving
8 services from the department.

9 SECTION 7. Section 264.902, Family Code, is amended by
10 amending Subsection (a) and adding Subsections (e), (f), (g), (h),
11 (i), and (j) to read as follows:

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

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

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

23 (3) the duties of the department;

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

27 (5) any other term the department determines necessary

1 for the safety and welfare of the child.

2 (e) Before a parent or other person making a parental child
3 safety placement and the caregiver enter into a parental child
4 safety placement agreement, the department shall notify each person
5 of the person's right to consult with an attorney and provide the
6 person with a reasonable time in which to do so.

7 (f) An initial parental child safety placement agreement
8 automatically terminates on the earlier of the 30th day after the
9 date:

10 (1) the agreement is signed; or

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

12 (g) On the expiration of a parental child safety placement
13 agreement, the department may for good cause enter into not more
14 than two additional parental child safety placement agreements for
15 the child. On entering an additional parental child safety
16 placement agreement under this subsection, the department shall:

17 (1) reevaluate the terms and conditions of the
18 original agreement; and

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

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

21 (B) be represented by an attorney or a
22 court-appointed attorney if:

23 (i) the parent is indigent; and

24 (ii) the department subsequently seeks a
25 court order to require the parents to participate in services.

26 (h) An additional parental child safety placement agreement
27 described by Subsection (g) automatically terminates on the 30th

1 day after the date the agreement is signed.

2 (i) Notwithstanding Subsections (g) and (h), the department
3 may not place a child outside of the child's home under a parental
4 child safety placement for longer than 90 calendar days unless the
5 parental child safety placement agreement is signed by both the
6 parent and the parent's attorney or a court otherwise renders an
7 order regarding the placement under Chapter 262. This subsection
8 may not be construed to affect the duration of an agreement between
9 the department and the parent other than a parental child safety
10 placement agreement.

11 (j) A parental child safety placement agreement must
12 include the following language: "THIS AGREEMENT IS ENTIRELY
13 VOLUNTARY. THE AGREEMENT MAY NOT LAST LONGER THAN 30 DAYS. THE
14 AGREEMENT MAY BE RENEWED NOT MORE THAN TWO TIMES AND FOR NOT MORE
15 THAN 30 DAYS EACH TIME. A CHILD MAY NOT BE PLACED OUTSIDE OF THE
16 CHILD'S HOME FOR LONGER THAN A TOTAL OF 90 CALENDAR DAYS WITHOUT A
17 SIGNED AGREEMENT BY THE CHILD'S PARENT AND THE PARENT'S ATTORNEY OR
18 A COURT ORDER RENDERED UNDER CHAPTER 262."

19 SECTION 8. Subchapter L, Chapter 264, Family Code, is
20 amended by adding Section 264.907 to read as follows:

21 Sec. 264.907. INCLUSIONS IN REPORTS OF PARENTAL CHILD
22 SAFETY PLACEMENTS. The department shall, where appropriate:

23 (1) include children who are placed with a caregiver
24 under a parental child safety placement agreement in any report,
25 including reports submitted to the United States Department of
26 Health and Human Services or another federal agency, in which the
27 department is required to report the number of children in the child

1 protective services system who are removed from the children's
2 homes; and

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

6 SECTION 9. (a) Section 261.303, Family Code, as amended by
7 this Act, applies only to an order rendered on or after the
8 effective date of this Act. An order rendered before the effective
9 date of this Act is governed by the law in effect on the date of the
10 order, and the former law is continued in effect for that purpose.

11 (b) Section 261.307, Family Code, as amended by this Act,
12 applies only to an investigation of a report of child abuse or
13 neglect that is made on or after the effective date of this Act. An
14 investigation of a report of child abuse or neglect made before the
15 effective date of this Act is governed by the law in effect on the
16 date the report was made, and the former law is continued in effect
17 for that purpose.

18 (c) Section 262.206, Family Code, as amended by this Act,
19 applies only to an ex parte hearing held on or after the effective
20 date of this Act. An ex parte hearing held before that date is
21 governed by the law in effect on the date the ex parte hearing was
22 held, and the former law is continued in effect for that purpose.

23 (d) Section 264.902, Family Code, as amended by this Act,
24 applies only to a parental child safety placement agreement
25 executed on or after the effective date of this Act. A parental
26 child safety placement agreement executed before the effective date
27 of this Act is governed by the law in effect on the date the

1 agreement was executed, and the former law is continued in effect
2 for that purpose.

3 SECTION 10. This Act takes effect September 1, 2023.