

House Bill 730
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

No equivalent provision.

SECTION 1. Section 261.303, Family Code, is amended by amending Subsections (b) and (c) and adding Subsections (f), (g), and (h) 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 has probable cause to believe 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,

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SECTION __. Section 261.301, Family Code, is amended by adding Subsection (l) to read as follows:

(l) After the 60th day after the date an investigation is closed, the department may not reopen the investigation or change the department's finding in the investigation to find abuse or neglect occurred. Before the 60th day after the date an investigation is closed, the department may reopen a closed investigation and change the department's finding in the investigation only for good cause shown. The commissioner by rule shall establish procedures for reopening a closed investigation as authorized by this section. [FA2]

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

(b) If admission to the home, school, or any place where the child may be cannot be obtained, ~~[then for good cause shown]~~ the court having family law jurisdiction 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 if the court:

(1) has good cause to believe that the child is in imminent danger of being subjected to aggravated circumstances as described by Section 262.2015(b); or

(2) has probable cause to believe that admission is necessary to protect the child from abuse or neglect not described by Subdivision (1). [FA1]

(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,

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psychological, or psychiatric examination of the child that is requested by the department, and if the court having family law jurisdiction has probable cause to believe that releasing the records or conducting an examination of the child is necessary to protect the child from abuse or neglect, then the court shall~~[, for good cause shown,]~~ order the records to be released or the examination to be made at the times and places designated by the court.

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

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

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

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

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

(1) a written summary that:

(A) is brief and easily understood;

(B) is written in a language that the person understands, or if the person is illiterate, is read to the person in a language that

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psychological, or psychiatric examination of the child that is requested by the department, and if the court having family law jurisdiction has probable cause to believe that releasing the records or conducting an examination of the child is necessary to protect the child from abuse or neglect, then the court shall~~[, for good cause shown,]~~ order the records to be released or the examination to be made at the times and places designated by the court.

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

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

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

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the person understands; and

(C) contains the following information:

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

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

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

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

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

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

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

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

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

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

(viii) the known allegations the department is investigating;

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- (2) a verbal notification of the right to:
- (A) not speak with any agent of the department without legal counsel present;
 - (B) receive assistance from an attorney;
 - (C) have a court-appointed attorney if:
 - (i) the person is indigent;
 - (ii) the person is the parent of the child; and
 - (iii) the department seeks a court order in a suit filed under Section 262.101 or 262.105 or a court order requiring the person to participate in services under Section 264.203;
 - (D) record any interaction or interview subject to the understanding that the recording may be subject to disclosure to the department, law enforcement, or another party under a court order;
 - (E) refuse to allow the investigator to enter the home or interview the child without a court order;
 - (F) have legal counsel present before allowing the investigator to enter the home or interview the child;
 - (G) withhold consent to the release of any medical or mental health records;
 - (H) withhold consent to any medical or psychological examination of the child;
 - (I) refuse to submit to a drug test; and
 - (J) consult with legal counsel prior to agreeing to any proposed voluntary safety plan;
- (3) if the department determines that removal of the child may be warranted, a proposed child placement resources form that:
- (A) instructs the parent or other person having legal custody of the child to:
 - (i) complete and return the form to the department or agency;
 - (ii) identify in the form at least three individuals who could

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be relative caregivers or designated caregivers, as those terms are defined by Section 264.751;

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

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

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

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

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

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

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

(e) If a person who is the subject of an investigation does not receive the verbal notification and written summary required by this section, any information obtained from the person, and

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any other information that would not have been discovered without that information, is not admissible for use against the person in any civil proceeding.

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

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

- (1) the child's parent;
- (2) the attorney for the child's parent if represented by an attorney;
- (3) an attorney ad litem for the child appointed under Chapter 107;
- (4) a guardian ad litem for the child appointed under Chapter 107, including a volunteer advocate; and
- (5) any other person the court determines has an interest in the child's welfare.

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

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

(b) A court that holds an ex parte hearing authorized by this

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chapter shall prepare and keep a record of the hearing in the form of an audio or video recording or a court reporter transcription.

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

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

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

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

(1) outside of the child's home; or

(2) in the conservatorship of the department.

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

(1) state its findings in the order;

(2) make appropriate temporary orders under Chapter 105 necessary to ensure the safety of the child, except that the court may not issue a temporary order that places the child:

(A) outside of the child's home; or

(B) in the conservatorship of the department; and

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

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

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

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

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

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

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

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

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

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SECTION 6. Same as House version.

SECTION 7. Same as House version.

SECTION 8. Same as House version.

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- (1) the respective duties of the person making the placement and the caregiver, including a plan for how the caregiver will access necessary medical treatment for the child and the caregiver's duty to ensure that a school-age child is enrolled in and attending school;
- (2) conditions under which the person placing the child may have access to the child, including how often the person may visit and the circumstances under which the person's visit may occur;
- (3) the duties of the department;
- (4) subject to Subsection (f), the date on which the agreement will terminate unless terminated sooner or extended to a subsequent date as provided under department policy; and
- (5) any other term the department determines necessary for the safety and welfare of the child.
- (e) Before a parent or other person making a parental child safety placement and the caregiver enter into a parental child safety placement agreement, the department shall notify each person of the person's right to consult with an attorney and provide the person with a reasonable time in which to do so.
- (f) An initial parental child safety placement agreement automatically terminates on the earlier of the 30th day after the date:
- (1) the agreement is signed; or
- (2) the child is placed with the caregiver.
- (g) On the expiration of a parental child safety placement agreement, the department may for good cause enter into not more than two additional parental child safety placement agreements for the child. On entering an additional parental child safety placement agreement under this subsection, the department shall:
- (1) reevaluate the terms and conditions of the original

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agreement; and

(2) notify the parents of their right to:

(A) refuse to enter into the agreement; and

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

(i) the parent is indigent; and

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

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

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

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

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

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

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

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

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

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

SECTION 9. Same as House version.

SECTION 10. Same as House version.

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

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

SECTION 11. This Act takes effect September 1, 2023.

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SECTION 11. Same as House version.

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