

House Bill 1087
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

No equivalent provision.

SENATE VERSION (IE)

CONFERENCE

SECTION __. Section 161.001, Family Code, is amended by adding Subsections (f) and (g) to read as follows:
(f) In a suit for termination of the parent-child relationship filed by the Department of Family and Protective Services, the court may not order termination of the parent-child relationship under Subsection (b)(1) unless the court finds by clear and convincing evidence and describes in writing with specificity in a separate section of the order that:
(1) the department made reasonable efforts to return the child to the parent before commencement of a trial on the merits and despite those reasonable efforts, a continuing danger remains in the home that prevents the return of the child to the parent; or
(2) reasonable efforts to return the child to the parent, including the requirement for the department to provide a family service plan to the parent, have been waived under Section 262.2015.
(g) In a suit for termination of the parent-child relationship filed by the Department of Family and Protective Services in which the department made reasonable efforts to return the child to the child's home but a continuing danger in the home prevented the child's return, the court shall include in a separate section of its order written findings describing with specificity the reasonable efforts the department made to return the child to the child's home. [FA1(6)]

SECTION 1. Section 262.101, Family Code, is amended to read as follows:
Sec. 262.101. FILING PETITION BEFORE TAKING POSSESSION OF CHILD. (a) An original suit filed by a governmental entity that requests permission to take

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possession of a child without prior notice and a hearing must be supported by an affidavit sworn to by a person with personal knowledge and stating facts sufficient to satisfy a person of ordinary prudence and caution that:

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

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

(3) there is no time, consistent with the physical health or safety of the child, for a full adversary hearing under Subchapter C; and

(4) reasonable efforts, consistent with the circumstances and providing for the safety of the child, were made to prevent or eliminate the need for the removal of the child.

(b) The affidavit required by Subsection (a) must describe all reasonable efforts, consistent with the circumstances and providing for the safety of the child, that were made to prevent or eliminate the need for the removal of the child.

SECTION 2. Section 262.102, Family Code, is amended by adding Subsection (e) to read as follows:

(e) The temporary order, temporary restraining order, or attachment of a child rendered by the court under Subsection (a) must describe the reasonable efforts, consistent with the circumstances and providing for the safety of the child, that were made to prevent or eliminate the need for the removal of the child as required by Subsection (a)(4).

SENATE VERSION (IE)

possession of a child without prior notice and a hearing must be supported by an affidavit sworn to by a person with personal knowledge and stating facts sufficient to satisfy a person of ordinary prudence and caution that:

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

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

(3) there is no time, consistent with the physical health or safety of the child, for a full adversary hearing under Subchapter C; and

(4) reasonable efforts, consistent with the circumstances and providing for the safety of the child, were made to prevent or eliminate the need for the removal of the child.

(b) The affidavit required by Subsection (a) must describe with specificity in a separate section all reasonable efforts, consistent with the circumstances and providing for the safety of the child, that were made to prevent or eliminate the need for the removal of the child. [FA1(1)]

SECTION 2. Section 262.102, Family Code, is amended by adding Subsection (e) to read as follows:

(e) The temporary order, temporary restraining order, or attachment of a child rendered by the court under Subsection (a) must describe with specificity in a separate section the reasonable efforts, consistent with the circumstances and providing for the safety of the child, that were made to prevent or eliminate the need for the removal of the child as required by Subsection (a)(4). [FA1(2)]

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SECTION 3. Section 262.105, Family Code, is amended by adding Subsection (c) to read as follows:

(c) The affidavit required by Subsection (b) must describe all reasonable efforts, consistent with the circumstances and providing for the safety of the child, that were made to prevent or eliminate the need for the removal of the child.

SECTION 4. Section 262.107, Family Code, is amended by adding Subsection (c) to read as follows:

(c) If the court does not order the return of the child at an initial hearing under Subsection (a), the court must describe in writing the reasonable efforts, consistent with the circumstances and providing for the safety of the child, that were made to prevent or eliminate the need for the removal of the child.

SECTION 5. Section 262.201, Family Code, is amended by adding Subsection (g-2) to read as follows:

(g-2) If, at the conclusion of a full adversary hearing, the court renders an order under Subsection (g) or (g-1), the court must describe in writing:

(1) the reasonable efforts that were made to enable the child to return home and the substantial risk of a continuing danger if the child is returned home, as required by Subsection (g)(3);
or

(2) the reasonable efforts that were made to enable a person's possession of the child and the continuing danger to the physical health or safety of the child as required by Subsection (g-1)(2).

SENATE VERSION (IE)

SECTION 3. Section 262.105, Family Code, is amended by adding Subsection (c) to read as follows:

(c) The affidavit required by Subsection (b) must describe with specificity in a separate section all reasonable efforts, consistent with the circumstances and providing for the safety of the child, that were made to prevent or eliminate the need for the removal of the child. [FA1(3)]

SECTION 4. Section 262.107, Family Code, is amended by adding Subsection (c) to read as follows:

(c) If the court does not order the return of the child at an initial hearing under Subsection (a), the court must describe in writing and in a separate section the reasonable efforts, consistent with the circumstances and providing for the safety of the child, that were made to prevent or eliminate the need for the removal of the child. [FA1(4)]

SECTION 5. Section 262.201, Family Code, is amended by adding Subsection (g-2) to read as follows:

(g-2) If, at the conclusion of a full adversary hearing, the court renders an order under Subsection (g) or (g-1), the court must describe in writing and in a separate section: [FA1(5)]

(1) the reasonable efforts that were made to enable the child to return home and the substantial risk of a continuing danger if the child is returned home, as required by Subsection (g)(3);
or

(2) the reasonable efforts that were made to enable a person's possession of the child and the continuing danger to the physical health or safety of the child as required by Subsection (g-1)(2).

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SECTION 6. The changes in law made by this Act apply to a suit affecting the parent-child relationship filed on or after the effective date of this Act. A suit filed before the effective date of this Act is governed by the law in effect on the date the suit is filed, and the former law is continued in effect for that purpose.

SECTION 6. Same as House version.

SECTION 7. This Act takes effect September 1, 2023.

SECTION 7. Same as House version.