

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 261.301, Family Code, is amended by adding Subsection (1) to read as follows:

(1) 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.

SECTION 2. 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

1 charge of any place where the child may be to allow entrance for the
2 interview, examination, and investigation if the court:

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

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

9 (c) If a parent or person responsible for the child's care
10 does not consent to release of the child's prior medical,
11 psychological, or psychiatric records or to a medical,
12 psychological, or psychiatric examination of the child that is
13 requested by the department, and if the court having family law
14 jurisdiction has probable cause to believe that releasing the
15 records or conducting an examination of the child is necessary to
16 protect the child from abuse or neglect, then the court shall~~[, for~~
17 ~~good cause shown,]~~ order the records to be released or the
18 examination to be made at the times and places designated by the
19 court.

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

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

27 (h) On request of a party to the suit, the court shall

1 provide a copy of an order rendered under this section to the party.

2 SECTION 3. Section 261.307, Family Code, is amended to read
3 as follows:

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

10 (1) a written summary that:

11 (A) is brief and easily understood;

12 (B) is written in a language that the person
13 understands, or if the person is illiterate, is read to the person
14 in a language that the person understands; and

15 (C) contains the following information:

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

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

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

26 (c) an explanation that any statement
27 or admission made by the person to anyone may be used against the

1 person in a criminal case, as a basis to remove the child who is the
2 subject of the investigation or any other child from the person's
3 care, custody, and control either temporarily or permanently, or as
4 a basis to terminate the person's relationship with the child who is
5 the subject of the investigation or any other child;

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

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

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

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

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

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

21 (viii) the known allegations the department
22 is investigating;

23 (2) a verbal notification of the right to:

24 (A) not speak with any agent of the department
25 without legal counsel present;

26 (B) receive assistance from an attorney;

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

1 (i) the person is indigent;

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

3 and

4 (iii) the department seeks a court order in

5 a suit filed under Section 262.101 or 262.105 or a court order

6 requiring the person to participate in services under Section

7 264.203;

8 (D) record any interaction or interview subject

9 to the understanding that the recording may be subject to

10 disclosure to the department, law enforcement, or another party

11 under a court order;

12 (E) refuse to allow the investigator to enter the

13 home or interview the child without a court order;

14 (F) have legal counsel present before allowing

15 the investigator to enter the home or interview the child;

16 (G) withhold consent to the release of any

17 medical or mental health records;

18 (H) withhold consent to any medical or

19 psychological examination of the child;

20 (I) refuse to submit to a drug test; and

21 (J) consult with legal counsel prior to agreeing

22 to any proposed voluntary safety plan;

23 (3) if the department determines that removal of the

24 child may be warranted, a proposed child placement resources form

25 that:

26 (A) instructs the parent or other person having

27 legal custody of the child to:

1 (i) complete and return the form to the
2 department or agency;

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

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

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

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

17 (4) [~~(3)~~] an informational manual required by Section
18 261.3071.

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

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

25 (d) The department shall adopt a form for the purpose of
26 verifying that the parent or other person having legal custody of
27 the child received the verbal notification and written summary

1 required by this section. The department shall provide a true and
2 correct copy of the signed form to the person who is the subject of
3 the investigation or that person's attorney, if represented by an
4 attorney.

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

11 SECTION 4. Subchapter D, Chapter 261, Family Code, is
12 amended by adding Section 261.3081 to read as follows:

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

19 (1) the child's parent;

20 (2) the attorney for the child's parent if represented
21 by an attorney;

22 (3) an attorney ad litem for the child appointed under
23 Chapter 107;

24 (4) a guardian ad litem for the child appointed under
25 Chapter 107, including a volunteer advocate; and

26 (5) any other person the court determines has an
27 interest in the child's welfare.

1 SECTION 5. Section 262.206, Family Code, is reenacted and
2 amended to read as follows:

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

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

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

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

16 SECTION 6. Sections 264.203(e) and (n), Family Code, are
17 amended to read as follows:

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

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

22 (2) in the conservatorship of the department.

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

25 (1) state its findings in the order;

26 (2) make appropriate temporary orders under Chapter
27 105 necessary to ensure the safety of the child, except that the

1 court may not issue a temporary order that places the child:

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

3 (B) in the conservatorship of the department; and

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

7 SECTION 7. Subchapter C, Chapter 264, Family Code, is
8 amended by adding Section 264.2032 to read as follows:

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

15 (1) the child's parent;

16 (2) the child's managing conservator;

17 (3) the child's guardian; or

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

19 SECTION 8. Section 264.901(2), Family Code, is amended to
20 read as follows:

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

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

1 (B) while the parent or other person is receiving
2 services from the department.

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

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

8 (1) the respective duties of the person making the
9 placement and the caregiver, including a plan for how the caregiver
10 will access necessary medical treatment for the child and the
11 caregiver's duty to ensure that a school-age child is enrolled in
12 and attending school;

13 (2) conditions under which the person placing the
14 child may have access to the child, including how often the person
15 may visit and the circumstances under which the person's visit may
16 occur;

17 (3) the duties of the department;

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

21 (5) any other term the department determines necessary
22 for the safety and welfare of the child.

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

1 (f) An initial parental child safety placement agreement
2 automatically terminates on the earlier of the 30th day after the
3 date:

4 (1) the agreement is signed; or

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

6 (g) On the expiration of a parental child safety placement
7 agreement, the department may for good cause enter into not more
8 than two additional parental child safety placement agreements for
9 the child. On entering an additional parental child safety
10 placement agreement under this subsection, the department shall:

11 (1) reevaluate the terms and conditions of the
12 original agreement; and

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

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

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

17 (i) the parent is indigent; and

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

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

23 (i) Notwithstanding Subsections (g) and (h), the department
24 may not place a child outside of the child's home under a parental
25 child safety placement for longer than 90 calendar days unless the
26 parental child safety placement agreement is signed by both the
27 parent and the parent's attorney or a court otherwise renders an

1 order regarding the placement under Chapter 262. This subsection
2 may not be construed to affect the duration of an agreement between
3 the department and the parent other than a parental child safety
4 placement agreement.

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

13 SECTION 10. Subchapter L, Chapter 264, Family Code, is
14 amended by adding Section 264.907 to read as follows:

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

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

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

27 SECTION 11. (a) Section 261.303, Family Code, as amended by

1 this Act, applies only to an order rendered on or after the
2 effective date of this Act. An order rendered before the effective
3 date of this Act is governed by the law in effect on the date of the
4 order, and the former law is continued in effect for that purpose.

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

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

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

24 SECTION 12. This Act takes effect September 1, 2023.

President of the Senate

Speaker of the House

I certify that H.B. No. 730 was passed by the House on May 1, 2023, by the following vote: Yeas 139, Nays 3, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 730 on May 19, 2023, by the following vote: Yeas 139, Nays 1, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 730 was passed by the Senate, with amendments, on May 15, 2023, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor