

[DONATE](#)[NEWSLETTER](#)

The Imprint

YOUTH & FAMILY NEWS

FILED 5/30/2023 10:11AM

SHARE

Texas Bill To Increase Rights for Parents Under Investigation Passes State House and Senate

BY [ANNIE SCIACCA](#)



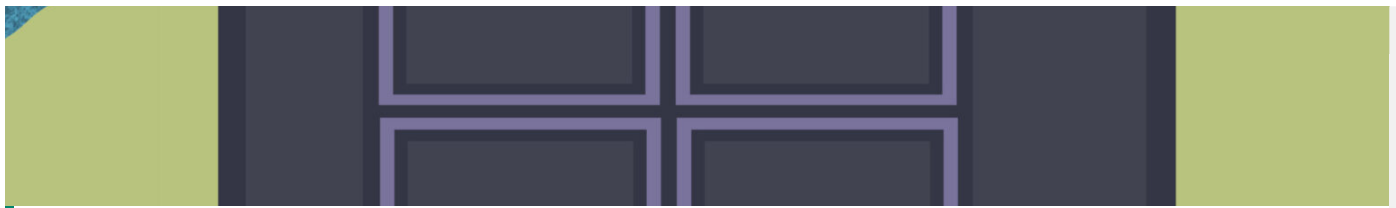


Illustration by Adobe Stock.

A Texas bill that aims to improve due process protections for parents involved in child welfare cases has passed both houses of the Legislature and is now headed to the governor's desk.

The legislation, House Bill 730, would require child protection workers to inform parents of their rights at the start of an investigation into abuse or neglect allegations. If signed into law, upon first contact with the parent or person under investigation, caseworkers would need to provide a written summary of the allegations and describe the process the state Department of Family and Protective Services uses to investigate maltreatment claims. Parents would also be advised of their rights to confer with an attorney, and to decline entry to child welfare workers who do not have a court order.

“We always want to make sure to remove kids when they're in danger. But I think it is becoming clear, in a lot of cases, we're removing kids and putting them in situations that are worse than they were in,” Texas state Rep. James Frank (R), who introduced H.B. 730, [told the Texas Tribune](#) earlier this year. “It causes trauma to the child. It also causes a lot of extra work within CPS that should be better suited towards the most serious cases.”



Frank's bill has passed the state House and Senate. Republican Gov. Greg Abbott has 10 days to sign or veto the bill. If he takes no action, it will become law on Sept. 1.

The bill, which was jointly authored by Reps. Gene Wu (D), Candy Noble (R), and Josey Garcia (D), is the latest bipartisan effort to reform the state's beleaguered child welfare system. In 2021, lawmakers [passed](#) a bill aimed at reducing the removal of children following neglect allegations when they are due solely to a family's economic struggles.

“What we’ve tried to do in recent years is rebalance the system and make it more fair for the parents,” said Wu, an attorney who represented children and parents in foster care cases prior to joining the Legislature. “We try to not remove kids who are not in real danger.”

The bill is but one nationwide that aims to expand Miranda-style warnings that must be given to parents in child welfare investigations. Legislation in New York has [failed to pass](#) the state Legislature in the past, but [a similar bill](#) is making headway this session.

It is not common practice for child welfare workers to [search homes](#) without court orders. But if parents allow entry, county employees typically search their cupboards, refrigerator and bedrooms, and interview anyone in the home. These unannounced visits tend to instill enough fear in parents that they typically agree to anything being asked of them, advocates say.

Yet they do have the right to refuse a social worker entry when there is no court order. What’s more, in Texas, the majority of abuse and neglect allegations are unfounded, according to The Texas Tribune, which [found](#) that of the almost 500,000 reports of suspected child maltreatment called in to the state hotline last year, 166,000 were investigated, and 9,600 children were removed from their homes as a result.

“Parents in this state do have rights, both under law and the Constitution, but are often not at all aware of what those rights are at this stage,” Cindy Dyar, director of the Family Defense Project at Texas Rio Grande Legal Aid, told the Tribune in February. “That’s why so much happens at that stage that is unchecked — completely unchecked — and the things that happen are highly concerning.”

“WHAT WE’VE TRIED TO DO IN RECENT YEARS IS REBALANCE THE SYSTEM AND MAKE IT MORE FAIR FOR THE PARENTS.”

— TEXAS REP. GENE WU

If signed into law, HB 730 would also make it harder for county workers to alter the findings of an investigation — or to quickly reopen a case that had been deemed unfounded. The proposed legislation states that the Department of Family and Protective Services cannot reopen an investigation or change its findings for 60 days after closing an investigation.

Prior to the 60th day, the department can reopen a closed case, but must show “good cause.”

The legislation also aims to limit the impact of “parental child safety plans,” created when social workers advise parents to relinquish their kids to friends or relatives as an alternative to a formal foster care removal.

While such arrangements, known as **hidden foster care**, are technically voluntary, legal advocates say they can be coercive, and strip parents of due-process rights. A 2020 Stanford Law Review article by law professor Josh Gupta-Kagan **estimated** that nationwide, between 100,000 and 300,000 children may be separated from their parents in this manner each year.

A Texas Children’s Commission report found there had been 34,000 “informal kinship placements” in 2014. In 2022, that number had dropped to 1,481, according to the state’s Department of Family and Protective Services.

HB 730 would limit the amount of time a child can be put into such a placement to a total of 90 days, unless a court order and agreement is signed.

Wu, one of the joint authors of the bill, expressed reservations about this portion of the legislation. He cautioned that putting time limits on the kinship placements could have the unintended consequence of seeing more children removed from homes in more formal and binding ways.

“You are sort of forcing CPS’ hand,” Wu said.

Informal placements can provide parents experiencing a crisis at home more control over who cares for their children, rather than losing their kids to court-ordered foster care with strangers. It also gives them time to remedy challenges at home by completing drug treatment or counseling, Wu said, noting that 90 days may not be enough.

NEWSLETTER SIGN UP

Receive weekly updates from Imprint News

EMAIL ADDRESS*

SIGN UP

Still, advocates and some Texas lawmakers **have pushed** for greater due process for parents pressured into these informal placements, and they believe time limits would allow the

family the opportunity to quickly reunify.

Wu described HB 730 as an omnibus bill that is long overdue, and “provides safeguards for individuals who get caught up in child welfare investigations.”

EXPLORE THE IMPRINT

[child welfare](#)[foster care](#)[legislation](#)[parental rights](#)[Texas](#)

ABOUT THE AUTHOR

Annie Sciacca

Annie Sciacca is a freelance reporter for The Imprint based in Oakland, California. She can be reached at asciacca@imprintnews.org.

[VIEW ALL ARTICLES BY ANNIE](#) ▶

Subscribe Today

FOR EXCLUSIVE *YOUTH SERVICES INSIDER* CONTENT.



Learn more about Accenture's child welfare practice.

Translate your knowledge and experience into influence.



2023

REGISTER NOW

Oct. 17-18 | Bethesda, Maryland



Brain Science



COA Accreditation



EDI, Belonging, & Justice



Innovative Programs & Practices



Workforce Resilience & Leadership



social current
Activating the Power of the Social Sector

RECENTLY IN CHILD WELFARE



A 'Flabbergasted' Federal Judge Tells Texas 'There Are Children Dying and Being Injured On Your Watch'

ANNIE SCIACCA



 YOUTH SERVICES INSIDER

Top Child Welfare Official Contreras Leaving Biden Administration

JOHN KELLY

Your support allows *The Imprint* to provide independent, nonpartisan daily news covering the issues faced by vulnerable children and families.



DONATE

or



SUBSCRIBE

The Imprint is an independent, nonprofit daily news publication dedicated to covering child welfare, juvenile justice, mental health and educational issues faced by vulnerable children and families.

 *Search The Imprint*

GOT A TIP?

TIPS@IMPRINTNEWS.ORG

(213) 379-5359

INFO@IMPRINTNEWS.ORG



[TERMS OF USE](#)

[PRIVACY POLICY](#)