

BILL ANALYSIS

S.B. 999
By: West
Human Services
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Interested parties contend that there is insufficient clarity and consistency regarding the requirements affecting the various ways in which the state may remove a child from the child's parent or caregiver. S.B. 999 seeks to address these discrepancies by revising the procedures by which the state may take possession of a child.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

S.B. 999 amends the Family Code to remove the requirement that a person taking a child into possession without a court order in an emergency to protect the child's health and safety request a court to appoint an attorney ad litem for the child. The bill requires an original suit affecting the parent-child relationship filed by a governmental entity after taking possession of a child under such circumstances to be supported by an affidavit stating facts sufficient to satisfy a person of ordinary prudence and caution that, based on the affiant's personal knowledge or on information furnished by another person corroborated by the affiant's personal knowledge, at the time the child was taken into possession there was an immediate danger to the physical health or safety of the child, the child was the victim of sexual abuse or of trafficking, the parent or person who had possession of the child was using a controlled substance and the use constituted an immediate danger to the physical health or safety of the child, or the parent or person who had possession of the child permitted the child to remain on premises used for the manufacture of methamphetamine and that, based on the affiant's personal knowledge, continuation of the child in the home would have been contrary to the child's welfare, there was no time consistent with the physical health or safety of the child for a full adversary hearing, and 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. The bill includes among the conditions under which a court is exempt from the requirement to order the return of a child at the initial hearing of such a suit the condition that the court is satisfied that the evidence shows that the other requisite conditions are met and that the parent or person who has possession of the child is currently using a controlled substance and the use constitutes an immediate danger to the physical health or safety of the child or that the parent or person who has possession of the child has permitted the child to remain on premises used for the manufacture of methamphetamine.

S.B. 999 repeals provisions relating to a hearing in a suit filed by a governmental entity

requesting possession of a child who has not yet been taken into possession and instead applies to such a suit the procedures for a full adversary hearing regarding a child who has already been taken into possession, with certain exceptions. The bill sets a deadline for holding a full adversary hearing in a suit filed by a governmental entity requesting possession of a child as not later than the 30th day after the date the suit is filed, retains the authority of a court in such a suit to render a temporary restraining order for the safety and welfare of the child, and sets out circumstances under which a court in such a suit is required to issue an appropriate temporary order. The bill authorizes a court, if a parent who is not indigent appears in opposition to a suit in which a full adversary hearing is required, to postpone the full adversary hearing for good cause shown for not more than seven days from the date of the parent's appearance to allow the parent to hire an attorney or to provide the parent's attorney time to respond to the petition and prepare for the hearing, subject to certain limits and requirements.

S.B. 999 repeals Section 262.205, Family Code.

EFFECTIVE DATE

September 1, 2017.