

**SUBJECT:** Temporary restraining orders in cases of alleged child abuse

**COMMITTEE:** Human Services — favorable, without amendment

**VOTE:** 7 ayes — Rose, Herrero, Darby, Elkins, Hernandez, Naishtat, Walle  
0 nays  
2 absent — Hughes, Legler

**SENATE VOTE:** On final passage, April 2 — 31-0, on Local and Uncontested Calendar

**WITNESSES:** For — William I. Cox, Texas Association of Child Placing Agencies;  
Diana Martinez, TexProtects, The Texas Association of Protection of  
Children  
Against — None

**BACKGROUND:** Family Code, sec. 262.1015(b) permits a court to issue a temporary restraining order in a suit by the Department of Family and Protective Services for the removal of an alleged perpetrator of child abuse if the department can satisfy the court that there is immediate danger to the physical health or safety of the child or the child has been the victim of sexual abuse; if there is not time for an adversary hearing; if the child is not in danger of abuse from a parent or other adult with whom the child will continue to reside in the child's residence; and the issuance of the order is in the best interests of the child.

**DIGEST:** SB 786 would require a court, when issuing a temporary restraining order in a suit by the Department of Family and Protective Services for removal of an alleged perpetrator of child abuse, to determine that the parent or other adult with whom the child would continue to reside in the child's home was likely to make a responsible effort to monitor the residence and report to the department and law enforcement any attempt by the alleged perpetrator to return to the residence.  
  
A court would have to consider whether the child's household included a person who had abused or neglected another child or sexually abused

another child, when determining if there was immediate danger to the physical health or safety of the child or if the child had been the victim of sexual abuse and whether there was not enough time for an adversary hearing.

The bill would take effect September 1, 2009, and would apply only to a petition for a temporary restraining order in a suit by DFPS filed on or after that date.

**NOTES:**

Identical language is contained in HB 4255 by Hilderbran, which was set on the May 13 General State Calendar, but no further action was taken.