

BILL ANALYSIS

Senate Research Center

H.B. 1826
By: Goodman (Harris)
Jurisprudence
4-29-97
Committee Report (Amended)

DIGEST

The Texas Department of Protective and Regulatory Services (DPRS) is the state agency charged with investigating abuse and neglect of children. The Texas Family Code, Chapters 261-264, govern such investigations and the provision of services by DPRS. Chapter 161 and numerous other Family Code provisions affect DPRS operations. DPRS foster families, advocates, and others have identified areas within the law which need to be changed and clarified to improve the ability of DPRS to protect children.

PURPOSE

As proposed, H.B. 1826 modifies and clarifies the law to improve the Department of Protective and Regulatory Services' (DPRS) ability to protect children and provide services to families affected by reports of abuse and neglect; removes obstacles to allow quicker permanent placement for children in DPRS conservatorship.

RULEMAKING AUTHORITY

Rulemaking authority is granted to the Board of Protective and Regulatory Services in SECTION 18 (Chapter 261.406, Family Code) and SECTION 27 (Section 264.101(d), Family Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 32.005(b), Family Code, to authorize an examination under this section to include photographs.

SECTION 2. Amends Section 261.107, Family Code, to set forth the effects of filing a false report under this section, including criminal penalties or modification of the parent-child relationship.

SECTION 3. Amends Section 102.003, Family Code, to authorize a suit to be filed by a foster parent of a child placed by the Department of Protective and Regulatory Services (DPRS).

SECTION 4. Amends Chapter 104, Family Code, by adding Section 104.006, as follows:

Sec. 104.006. HEARSAY STATEMENT OF CHILD ABUSE VICTIM. Sets forth requirements for introducing a statement of a victim of child abuse.

SECTION 5. Amends Section 105.001, Family Code, by amending Subsection (b) and adding Subsection (h), to authorize an order under Subsection (a)(1) to be rendered without notice and an adversary hearing if the order is an emergency order sought by a governmental entity under Chapter 262. Makes a conforming change.

SECTION 6. Amends Section 107.016, Family Code, to make a nonsubstantive change.

SECTION 7. Amends Section 152.003(e), Family Code, to provide that this subsection does not apply to a suit under Chapter 262.

SECTION 8. Amends Section 155.004(a), Family Code, to provide that a court loses its continuing, exclusive jurisdiction to modify its order if another court assumed jurisdiction and rendered a final

order with incorrect information from the bureau of vital statistics, rather than the DPRS.

SECTION 9. Amends Section 161.001, Family Code, to authorize a court to order termination of the parent-child relationship if the parent, by clear and convincing evidence has been convicted or has been placed on community supervision, including deferred adjudication community supervision for being responsible for certain actions including abandoning a child for not less than six months, rather than one year.

SECTION 10. Amends Section 261.001, Family Code, to redefine "abuse."

SECTION 11. Amends Section 261.101(d), Family Code, to make a conforming change.

SECTION 12. Amends Section 261.201, Family Code, by amending Subsections (a), (c)-(f), and adding Subsection (g), to provide that audiotapes and video tapes are confidential under this section. Authorizes a court to order disclosure if certain conditions are met.

SECTION 13. Amends Section 261.302(b), Family Code, to authorize an interview and examination with a child to include transporting the child. Sets forth requirements for interviewing a child.

SECTION 14. Amends Section 261.302, Family Code, by adding Subsection (e), to require an interview with a child under this section to be audiotaped and videotaped unless good cause exists otherwise.

SECTION 15. Amends Sections 261.305(a)-(d), Family Code, to authorize an investigation to include a history of medical illness. Makes conforming changes.

SECTION 16. Amends Section 261.312(c), Family Code, to authorize a review team member acting in the member's official capacity to receive certain information. Deletes text regarding information to a review team.

SECTION 17. Amends Chapter 261D, Family Code, by adding Section 261.315, as follows:

Sec. 261.315. EXEMPTION FROM FEES FOR MEDICAL RECORDS. Sets forth requirements for exemption from fees for medical services.

SECTION 18. Amends Section 261.406, Family Code, by amending Subsections (a) and (b) and adding Subsection (d), to require the DPRS to perform an investigation on receipt of a report from the Texas Education Agency. Sets forth requirements for sending a written report to certain entities. Sets forth the applicability of Section 261.201(b). Requires the Board of Protective and Regulatory Services to adopt rules necessary to implement this section.

SECTION 19. Amends Section 262.1015, Family Code, by amending Subsections (c)-(g), to delete a provision notice. Provides that a temporary restraining order expires the 14th, rather than the 10th day after the order was rendered. Deletes a provision regarding adversary hearings. Requires the court to order removal of the alleged perpetrator if certain provisions are met. Makes conforming changes.

SECTION 20. Amends Section 262.104, Family Code, to authorize certain persons to take away a child without a court order if the child's parent or person who has possession of the child is using a controlled substance.

SECTION 21. Amends Section 262.201, Family Code, by adding Subsection (e), to set forth requirements for citation by publication.

SECTION 22. Amends Section 262.203, Family Code, to provide that a motion to transfer under this section is timely if made at any time after the date a suit was filed under this chapter.

SECTION 23. Amends Section 264.004, Family Code, by adding Subsection (c), to authorize DPRS

to use state and federal funds to provide certain benefits.

SECTION 24. Amends Section 264.005, Family Code, by adding Subsections (f) and (g), to authorize a member of a county child protective services board member to receive certain confidential information. Authorizes a child welfare board to conduct a closed meeting.

SECTION 25. Amends Section 264.006, Family Code, to authorize a court to provide certain support services without regard to the immigration status of the child or the child's family.

SECTION 26. Amends Chapter 264A, Family Code, by adding Sections 264.011 and 264.012, as follows:

Sec. 264.011. LOCAL ACCOUNTS. Sets forth requirements for establishing and maintaining local bank accounts.

Sec. 264.012. FUNERAL EXPENSES FOR CHILD IN FOSTER CARE. Authorizes DPRS to appropriate money for funeral expenses for a child in foster care.

SECTION 27. Amends Section 264.101, Family Code, to set forth requirements for paying the cost of foster care for a child. Authorizes the Board of Protective and Regulatory Services to adopt rules that establish criteria and guidelines for the payment of foster care. Authorizes the DPRS to accept and spend funds available from any source to pay for foster care. Defines "child."

SECTION 28. Amends Chapter 264B, Family Code, by adding Section 264.1015, as follows:

Sec. 264.1015. LIABILITY OF CHILD'S ESTATE FOR FOSTER CARE. Sets forth requirements for the liability of a child's estate for foster care.

SECTION 29. Amends Section 264.104, Family Code, by amending Subsection (b) and adding Subsection (c), to provide that the cost of foster care for a child is the legal obligation of certain entities.

SECTION 30. Amends Section 264.105, Family Code, as follows:

Sec. 264.105. New heading: MEDICAL SERVICES PAYMENTS. Requires DPRS to attempt to maximize the use of federal funding to provide medical care payments authorized by Section 264.101(c) for children for whom the DPRS has been named managing conservator. Deletes text regarding federal law or regulations and Subdivision (2).

SECTION 31. Amends Section 264.302(c), Family Code, to prohibit DPRS from providing services to a child who has been found to have engaged in delinquent conduct under Title 3.

SECTION 32. Amends Section 264.406, Family Code, by adding Subsection (f), to set forth persons who are to receive confidential information.

SECTION 33. Amends Chapter 264E, Family Code, by adding Sections 264.408-264.411, as follows:

Sec. 264.408. USE OF INFORMATION AND RECORDS; CONFIDENTIALITY AND OWNERSHIP. Sets forth use of information and records, including confidentiality and ownership of information and records.

Sec. 264.409. ADMINISTRATIVE CONTRACTS. Authorizes DPRS to contract with certain entities.

Sec. 264.410. CONTRACTS WITH CHILDREN'S ADVOCACY CENTERS. Sets forth requirements for contracts with children's advocacy centers.

Sec. 264.411. ELIGIBILITY FOR CONTRACTS. Sets forth requirements for eligibility for

contracts.

SECTION 34. Amends Section 25.002(f), Education Code, to delete text regarding enrolling a child in school.

SECTION 35. (a) Amends Chapter 42C, Human Resources Code, by adding Section 42.0535, as follows:

Sec. 42.0535. REQUIRED INFORMATION FOR VERIFICATION. Sets forth certain information which must be verified.

(b) Provides that this section takes effect September 1, 1997, and makes application of the section prospective.

SECTION 36. Makes application of SECTION 2 of this Act prospective.

SECTION 37. Makes application of SECTIONS 19 and 23 of this Act prospective.

SECTION 38. Effective date: September 1, 1997.
Makes application of this Act prospective.

SECTION 39. Emergency clause.

SUMMARY OF COMMITTEE CHANGES

Amendment 1.

(1) On page 4, line 14 insert the following new section and renumber the subsequent sections appropriately: SECTION 6. Amends Section 105.001, Family Code, by amending Subsection (b) and adding Subsection (h), to authorize an order under Subsection (a)(1) to be rendered without notice and an adversary hearing if the order is an emergency order sought by a governmental entity under Chapter 262.

(2) On page 6, lines 19-21, strike "his" and substitute "the parent's."

(3) On page 9, strike lines 11-18 and substitute Subdivision (P), to authorize a court to order termination of the parent-child relationship if the parent has used control substances and certain actions take place.

(4) On page 14, line 26, strike Subsection (e) and substitute a new Subsection (e), to set forth requirements for interviewing a child.

(5) On page 20, line 26, strike Subsection (e) and substitute a new Subsection (e), to set forth requirements for citation by publication.

(6) On page 24, lines 15-16, reinstate proposed deleted text: "initiated a suit and has."

Amendment 2.

(1) On page 3, lines 1-25, strike SECTION 4.

(2) On page 17, lines 20-27 and page 18, lines 1-8, strike SECTION 19.

(3) On page 21, lines 3-27 and page 22, lines 1-7, strike SECTION 23.

Amendment 3.

Amends Section 261.107, Family Code, to set forth the effects of filing a false report under this section, including criminal penalties or modification of the parent-child relationship.

