

- SUBJECT:** Revising procedures for removing children from a home
- COMMITTEE:** Human Services — favorable, without amendment
- VOTE:** 8 ayes — Raymond, Frank, Klick, Miller, Minjarez, Rose, Swanson, Wu  
1 nay — Keough
- SENATE VOTE:** On final passage, May 1 — 31-0
- WITNESSES:** *On House companion bill, HB 3108:*  
For — (*Registered, but did not testify:* Patricia Hogue, Texas Lawyers for Children; Andrew Homer, Texas CASA; Knox Kimberly, Upbring; Adriana Kohler, Texans Care for Children; Lee Nichols, TexProtects; James Thurston, United Ways of Texas; Virginia Parks)  
  
Against — Johana Scot, Parent Guidance Center; Cecilia Wood, Texas Home School Coalition  
  
On — Tina Amberboy, Supreme Court Children's Commission; (*Registered, but did not testify:* Elizabeth "Liz" Kromrei, Department of Family and Protective Services)
- BACKGROUND:** Family Code, ch. 262 governs the procedures for suits by a government agency to remove children from their homes. Emergency removals involve taking a child in immediate danger away from a home, with or without a court order, while non-emergency removals involve taking a child only after notice and an adversary hearing.
- DIGEST:** SB 999 would revise procedures relating to the removal of a child from a home. It would consolidate procedures for emergency and non-emergency hearings on removing children from a home and specify the findings that would need to be made in certain circumstances.
- Petition after emergency removal.** In addition to existing procedures, the bill would require a governmental entity that had removed a child without

a court order to submit an affidavit stating:

- the reason for removal;
- that continuation of the child in the home would have been contrary to the child's welfare;
- that there was no time for a full adversary hearing prior to removal; and
- that reasonable efforts were made to prevent or eliminate the need for removal of the child.

**Full adversary hearing.** A full adversary hearing held prior to the removal of a child would have to occur within 30 days after a petition was filed. At the conclusion of the hearing, the court would have to issue a temporary order if it found there was a continuing danger to the physical health or safety of a child caused by the person entitled to possession of a child and that continuation of the child in the home would be contrary to the child's welfare. The court also would have to find that reasonable efforts were made to prevent or eliminate the need for removal of the child.

During a full adversary hearing held after emergency removal of a child, a court could consider if a person in the household had abused or neglected another child when determining whether there was a continuing danger to a child in a home.

**Continuance.** The bill would extend an existing, maximum seven-day continuance of an adversarial hearing that is currently available to indigent persons to non-indigent persons for good cause shown. The continuance would allow time for the individual to hire an attorney or for the individual's attorney to file a response to the removal petition and prepare for the hearing.

**Effective date.** The bill would take effect September 1, 2017, and would apply only to a suit that was filed on or after that date.

SUPPORTERS SB 999 would ensure the same level of protection was afforded to parents

**SAY:** and children in non-emergency removal hearings as in emergency removals. Currently, the required findings for non-emergency hearings are less strict than those required in an emergency hearing, despite the fact that both can result in a child being removed from a home. This bill would ensure that non-emergency hearings in child removal suits had the same procedural safeguards as emergency removal hearings.

The bill would simplify existing procedures and clarify that the requirements of an affidavit in support of a petition for removal should include the same information that a judge would need to consider before ruling.

The bill would support current law and leave such important decisions as child placement to the discretion of judges who can review each case on an individual basis, rather than applying an overly restrictive, one-size-fits-all legal standard.

**OPPONENTS SAY:** SB 999 should prioritize placing children with a noncustodial parent unless there was a present threat of physical harm, a standard that would better protect the integrity of families.

**NOTES:** A companion bill, HB 3108 by Giddings, was reported favorably from the House Human Services Committee and placed on the General Calendar for May 9.