

BILL ANALYSIS

Senate Research Center
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C.S.H.B. 1622
By: Goodman (Harris)
Jurisprudence
5/4/1999
Committee Report (Substituted)

DIGEST

Over time, the Texas Legislature has modified the Family Code in a variety of ways to update the code with regard to changes in federal law, current social practices and realities, new legal standards, or to correct errors and omissions from past legislatures. C.S.H.B. 1622 would set forth provisions for the parent-child relationship and for suits affecting the parent-child relationship.

PURPOSE

As proposed, C.S.H.B. 1622 sets forth provisions for the parent-child relationship and for suits affecting the parent-child relationship.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 102.003, Family Code, to authorize an original suit to be filed at any time by a person, other than a foster parent, who has had actual care, control, and possession of the child for a least six months ending not more than 90 days preceding the date of the filing of the petition, rather than no less than six months preceding the filing of the petition; a person who is the foster parent of a child placed by the Department of Protective and Regulatory Services (department) in the person's home for at least 12 months ending not more than 90 days preceding the date of the filing of the petition, rather than a period of not less than 18 months preceding the date of the filing of the petition. Prohibits the court, in computing the time necessary for standing under Subsections (a) (9), (11), and (12), from requiring that the time be continuous and uninterrupted but shall consider the child's principal residence during the relevant time preceding the date of commencement of the suit. Makes conforming changes.

SECTION 2. Amends Sections 105.001(b) and (d), Family Code, to provide that a temporary restraining order or temporary injunction granted under this section need not include an order setting the cause of trial on the merits with respect to the ultimate relief requested. Deletes text authorizing the court, in a suit, to dispense with necessity of setting the cause for trial on the merits with respect to the ultimate relief requested. Makes conforming changes.

SECTION 3. Amends Section 107.0135, Family Code, to make a nonsubstantive change.

SECTION 4. Amends Section 107.014(a), Family Code, to require an attorney ad litem appointed under this subchapter to represent a child to become familiar with the American Bar Association's standards of practice for lawyers who represent children in abuse and neglect cases.

SECTION 5. Amends Section 107.015, Family Code, as follows:

Sec. 107.015. New heading: ATTORNEY AD LITEM FEES. Provides that an attorney appointed to represent a child or parent as authorized by this subchapter is entitled to reasonable fees and expenses, rather than a reasonable fee, in the amount set by the court to be paid by the parents of the child unless the parents are indigent. Authorizes the fees and expenses, rather than the costs, to be ordered paid by one or more of those parties, rather than by either or both parties, or the court or associate judge may order one or more of those parties, prior to final hearing, to pay sums in to the registry of the court or into an account authorized by the court for the use and benefit of the attorney ad litem on order of the court, if the court or associate judge determines that

one or more of the parties are able to defray the costs of an attorney ad litem's fees and expenses, rather than compensation. Prohibits a court from awarding attorney ad litem fees under this chapter against the state, a state agency, or a political subdivision of the state except as provided by this subsection.

SECTION 6. Amends Section 107.051(c), Family Code, to delete text regarding the department having no interest.

SECTION 7. Amends Section 108.001(c), Family Code, to provide that the records required under this section to be maintained by the bureau of vital statistics (bureau) are confidential, except as otherwise provided by law. Deletes text providing that the records of a child placing agency that has ceased operations are confidential and no person is entitled to access to or information from these records except for good cause on an order of the court that rendered the order.

SECTION 8. Amends Section 108.003, Family Code, to require the clerk of a court that renders a decree of adoption, within a certain time period, to transmit to the central registry of the bureau certified reports of adoption that include certain information, including the name and address of each parent, guardian, managing conservator, or other person whose consent to adoption was required or waived under Chapter 162, rather than Chapter 159. Makes a conforming change.

SECTION 9. Amends Section 108.005, Family Code, to require the bureau to close the records concerning a child, when the bureau receives a record, rather than records, from the distribution clerk showing that continuing, exclusive jurisdiction of a child has been lost due to the adoption of the child. Requires an inquiry concerning a child who has been adopted to be handled as though the child had not previously been the subject of a suit affecting the parent-child relationship. Deletes text prohibiting the bureau from disclosing any information concerning the prior proceedings affecting the child; requiring the bureau to provide the department registry certain information; and existing Subsection (b).

SECTION 10. Amends Chapter 108, Family Code, by adding Section 108.110, as follows:

Sec. 108.110. RELEASE OF INFORMATION BY BUREAU OF VITAL STATISTICS. Sets forth the required services the bureau will provide to the department. Authorizes the bureau to release otherwise confidential information from the bureau's central record files to another governmental entity that has a specific need for the information and maintains appropriate safeguards to prevent further dissemination of the information.

SECTION 11. Amends Section 153.434, Family Code, to prohibit a biological or adoptive grandparent from requesting possession of or access to a grandchild if each of the biological parents of the grandchild meet certain criteria, including the grandchild has been adopted, or is the subject of a pending suit for adoption, by a person other than the child's stepparent. Deletes text prohibiting a biological or adoptive grandparent from requesting possession of or access to a grandchild if the grandparent is a parent of a person whose parental rights with the child have been terminated by court order or by death; and the other biological parent has died, has executed an affidavit of waiver of interest in child or an affidavit of relinquishment of parental rights, or has had that parent's parental rights terminated. Makes conforming changes.

SECTION 12. Amends Section 155.204, Family Code, to provide that except as provided by Section 262.203, a motion to transfer by a petitioner or movant is timely if it is made at the time the initial pleadings are filed. Authorizes a party to file a transfer order with the clerk of court of continuing, exclusive jurisdiction, if a transfer order has been rendered by a court exercising jurisdiction under Chapter 262.

SECTION 13. Amends Section 156.104(a), Family Code, to authorize the court to modify a certain order if certain circumstances exist and the court finds that retention of a sole managing conservatorship would be detrimental to the welfare of the child.

SECTION 14. Amends Section 161.001, Family Code, to authorize the court to order termination of a parent-child relationship under certain conditions when the parent has acted in a certain manner including contumaciously refused to submit to a reasonable and lawful order of a court under Chapter 261D, rather than Chapter 264; been convicted or has been placed on community supervision, for being criminally responsible for the death or serious injury of a child under certain sections of the Penal Code, including Section 19.04 (manslaughter); used a controlled substance after completion of a court-ordered substance

treatment program, continued to abuse a controlled substance; or knowingly engaged in criminal conduct that has resulted in the parent's conviction of an offense and confinement or imprisonment.

SECTION 15. Reenacts Sections 161.211(a) and (b), Family Code, as amended by Section 1, Chapter 600, Acts of the 75th Legislature, Regular Session, 1997, and Section 2, Chapter 601, Acts of the 75th Legislature, Regular Session, 1997, as follows:

(a) Provides that, notwithstanding Rule 329, Texas Rules of Civil Procedure, the validity of an order terminating the parental rights of a person who has been personally served or who has executed an affidavit of relinquishment of parental rights or an affidavit of waiver of interest in a child or whose rights have been terminated under Section 161.002(b) is not subject to collateral or direct attack after the sixth month after the date the order was signed.

(b) Provides that, notwithstanding Rule 329, Texas Rules of Civil Procedure, the validity of an order terminating the parental rights of a person who is served by citation by publication is not subject to collateral or direct attack after the sixth month after the date the order was signed.

SECTION 16. Amends Section 162.008(b), Family Code, to prohibit a petition for adoption from being granted until certain documents have been filed, including a certificate from the bureau, rather than department, acknowledging receipt of the report, if a report is required to be submitted to the bureau, rather than department, under Section 162.006(e).

SECTION 17. Amends Section 261.101(d), Family Code, to provide that unless waived in writing by the person making the report, the identity of an individual making a report under this chapter is confidential and may be disclosed only in certain ways, including as provided by Section 261.201. Deletes text providing that the identity of an individual making a report under this chapter is confidential and may be disclosed in certain ways, including on the order of a court rendered under Section 261.201. Makes conforming changes.

SECTION 18. Amends Section 261.201, Family Code, by amending Subsections (b) and (c), and adding Subsection (h), to authorize a court to order the disclosure of information that is confidential under this section under certain conditions, including if after a hearing and during an in-camera review of the requested information, the court determines that the disclosure of the requested information is not likely to endanger the life or safety of certain persons, including any other person who participates in an investigation of reported abuse or neglect or who provides care for the child. Provides that this section does not apply to an investigation of child abuse or neglect in a home or facility regulated under Chapter 42, Human Resources Code.

SECTION 19. Amends Section 261.301(d), Family Code, to require the department, in conducting an investigation for a facility operated, licensed, certified, registered, or listed by the department, to perform the investigation as provided by Subchapter E, and the Human Resources Code.

SECTION 20. Amends Section 261.303, Family Code, by amending Subsection (c) and adding Subsection (d), to require the court having family law jurisdiction, for good cause shown, to order the records to be released or the examination to be made at the times and places designated by the court, if a parent or person responsible for the child's care does not consent to release of the child's prior medical, psychological, or psychiatric records or to a medical, psychological, or psychiatric examination of the child that is requested by the department or designated agency. Requires a person, including a medical facility, that makes a report under Subchapter B to release to the department or designated agency, as part of the required report under Section 261.103, records that directly relate to the suspected abuse or neglect without requiring parental consent or a court order.

SECTION 21. Amends Sections 261.305(a)-(c), Family Code, to authorize an investigation to include an inquiry into the possibility that a parent or a person responsible for the care of a child who is the subject of a report under Subchapter B has a history of medical or mental illness. Requires the court having family law jurisdiction, for good cause shown, to order an examination to be made or that the department or agency be permitted to have access to the records under terms and conditions prescribed by the court, if the parent or person does not consent to an examination or allow the department or designated agency to have access to medical or mental health records requested by the department or agency. Requires the court to appoint an attorney to represent the parent or person at the hearing, if the court determines that the parent or person is indigent. Requires the fees for the appointed attorney to be paid as provided by Chapter 107. Deletes text requiring the court to appoint an attorney to represent the parent or person

responsible for the child at the hearing to obtain medical or mental health records, if the court determines that the parent or person responsible for the care of the child is indigent. Deletes text requiring the fees for the appointed attorney to be paid by the department or designated agency.

SECTION 22. Reenacts Section 261.405, Family Code, as amended by Chapters 162 and 1374, Acts of the 75th Legislature, Regular Session, 1997, regarding investigations in pre-adjudication and post-adjudication secure juvenile facilities.

SECTION 23. Amends Section 261.406(b), Family Code, to require the department to send a written report of the department's investigation, as appropriate, to the Texas Education Agency, the agency responsible for teacher certification, the local school board or the school's governing body, and the school principal or director for appropriate action, unless the principal or director is alleged to have committed the abuse or neglect. Requires the report of investigation to be edited to protect the identity of the persons who made the report of abuse or neglect. Deletes text providing information for the report of abuse or neglect.

SECTION 24. Amends the heading of Chapter 262, Family Code, as follows:

CHAPTER 262. New heading: PROCEDURES IN SUIT BY GOVERNMENTAL
ENTITY TO PROTECT HEALTH AND SAFETY OF CHILD

SECTION 25. Amends Section 262.001, Family Code, to provide that in determining the reasonable efforts that are required to be made with respect to preventing or eliminating the need to remove a child from the child's home or to make it possible to return a child to the child's home, the child's health and safety is the paramount concern. Makes conforming changes.

SECTION 26. Amends Section 262.002, Family Code, as follows:

Sec. 262.002. New heading: JURISDICTION. Authorizes a suit brought by a governmental entity requesting an order under this chapter to be filed in a court with jurisdiction to hear the suit in the county in which the child is found.

SECTION 27. Amends Section 262.007, Family Code, to authorize the department, until a person entitled to possession of the child takes possession of the child, without a court order, to retain possession of the child not longer than five days, rather than 14 days, after the date the child is delivered to the department. Requires the department to proceed under this chapter as if the law enforcement officer took possession of the child under Section 262.104, if a parent or other person entitled to possession of the child does not take possession of the child before the 6th day, rather than 15th day, after the date the child is delivered to the department.

SECTION 28. Amends the heading for Subchapter B, Chapter 262, Family Code, as follows:

SUBCHAPTER B. New heading: TAKING POSSESSION OF CHILD

SECTION 29. Amends Section 262.101, Family Code, to require an original suit filed by a governmental entity that requests permission to take possession of a child without prior notice and a hearing to be supported by an affidavit sworn by a person with personal knowledge and stating facts sufficient to satisfy a person of ordinary prudence and caution of certain negative possible outcomes. Deletes text requiring a petition or affidavit to be filed by a governmental entity requesting permission to take possession of a child in an emergency to be sworn to by a person with personal knowledge and shall state facts sufficient to satisfy a person of ordinary prudence and caution of certain negative possible outcomes.

SECTION 30. Amends Section 262.102(a), Family Code, to provide that before a court may, without prior written notice and a hearing, issue a temporary restraining order or attachment of a child in a suit brought by a government entity, the court must find certain negative possible outcomes exist, including that there is an immediate danger to the physical health or safety of the child or the child has been a victim of neglect or sexual abuse and that the continuation in the home would be contrary to the child's welfare.

SECTION 31. Amends Section 262.106, Family Code, by adding Subsection (d), to provide that for the

first working day after the date the child is taken into possession, the child is considered to have been taken into possession by the department on the expiration of the five-day period permitted under Section 262.007(c) or 262.110(b), as appropriate.

SECTION 32. Amends Section 262.109(d), Family Code, to authorize the written notice to be waived by the court at the initial hearing on showing that the parents, conservators, or other custodians of the child could not be located, or for other good cause.

SECTION 33. Amends Section 262.110, Family Code, to authorize the department, until a parent or other person entitled to possession of the child takes possession of the child, to retain possession of the child without a court order for not more than five days. Requires the department, on the expiration of the fifth day, to take action under this chapter as if the department took possession of the child under Section 262.104, if a parent or other person entitled to possession does not take possession of the child. Makes a conforming change.

SECTION 34. Amends Chapter 262B, Family Code, by adding Section 262.113, as follows:

Sec. 262.113. **FILING SUIT WITHOUT TAKING POSSESSION OF CHILD.** Requires an original suit filed by a governmental entity that requests to take possession of a child after notice and a hearing to be supported by an affidavit sworn to by a person with personal knowledge and stating facts sufficient to satisfy a person of ordinary prudence and caution that reasonable efforts have been made to prevent or eliminate the need to remove the child from the child's home; and allowing the child to remain in the home would be contrary to the child's welfare.

SECTION 35. Amends Section 262.201, Family Code, by adding Subsection (g), to provide that for the purpose of determining under Subsection (a), the 14th day after the date the child is taken into possession, a child is considered to have been taken into possession by the department on the expiration of the five-day period permitted under Section 262.007(c) or 262.110(b), as appropriate.

SECTION 36. Amends Section 262.2015, Family Code, as follows:

Sec. 262.2015. New heading: **AGGRAVATED CIRCUMSTANCES.** Authorizes the court to waive the requirement of a service plan and the requirement to make reasonable efforts to return the child to a parent and may accelerate the trial schedule to result in a final order for a child under the care of the department at an earlier date than provided by Chapter 263D, if a court finds that all reasonable efforts have been made to return the child to a parent or that the parent has subjected the child to aggravated circumstances. Authorizes the court to find under Subsection (a), that a parent has subjected a child to aggravated circumstances if the parent abandoned the child without identification or a means of identifying the child; the child is a victim of serious bodily injury or sexual abuse inflicted by the parent or by another person with the parent's consent; the parent has engaged in conduct against the child or against another child of the parent that would constitute an offense under certain provisions of certain Penal Codes, including Section 19.02 (murder), Section 19.03 (capital murder), and Section 19.04 (manslaughter); the parent voluntarily left the child alone or in the possession of another person not the parent of the child for at least six months without expressing the intent to return and without providing adequate support for the child; or the parent's parental rights with regard to another child have been involuntarily terminated based on a finding that the parent's conduct violated Section 161.001(1) (D) or (E) or a substantially equivalent provision of another state's law. Requires the court, on finding that reasonable efforts to prevent or eliminate the need to remove the child or to make it possible for the child to safely return to the child's home are not required, at any time before the 30th day after the date of the finding, to conduct an initial permanency hearing under Chapter 263D. Provides that separate notice of the permanency plan is not required but may be given with a notice of a hearing under this section. Requires the department to make reasonable efforts to finalize the permanent placement of a child for whom the court has made the finding described by Subsection (c). Requires the court to set the suit for trial on the merits as required by Chapter 263D, in order to facilitate final placement of the child.

SECTION 37. Amends Section 262.203, Family Code, to require the court that rendered a temporary order, on the motion of a party or the court's own motion, if applicable, in accordance with procedures provided by Chapter 155, to transfer the suit to the court of continuing, exclusive jurisdiction, if any; if grounds exist for mandatory transfer from the court of continuing, exclusive jurisdiction under Section

155.201, order transfer of suit from that court; or if grounds exist for transfer based on improper venue, order transfer of the suit to the court having venue of the suit under Chapter 103. Authorizes, notwithstanding Section 155.204, a motion to transfer relating to a suit filed under this chapter to be filed separately from the petition and is timely if filed while the case is pending. Provides that notwithstanding Sections 6.407 and 103.002, a court exercising jurisdiction under this chapter is not required to transfer the suit to a court in which a parent has filed a suit for dissolution of marriage before a final order for the protection of the child has been rendered under Chapter 263E.

SECTION 38. Amends Chapter 262C, Family Code, by adding Section 262.205, as follows:

Sec. 262.205. HEARING WHEN CHILD NOT IN POSSESSION OF GOVERNMENTAL ENTITY. Authorizes the court to render a temporary restraining order as provided by Section 105.001, in a suit requesting possession of a child after notice of hearing. Requires the suit to be promptly set for hearing. Authorizes the court, after the hearing, to grant the request to remove a child from a parent, managing conservator, possessory conservator, guardian, caretaker, or custodian entitled to possession of the child, if the court finds sufficient evidence to satisfy a person of ordinary prudence and caution that reasonable efforts have been made to prevent or eliminate the need to remove the child from the child's home; and allowing the child to remain in the home would be contrary to the child's welfare. Sets forth the court's required actions, if the court orders removal of a child from the child's home. Authorizes the court to render a temporary order without regard to whether notice of the citation has been published, if citation by publication is required for a parent or alleged or probable father in an action under this chapter because the location of the person is unknown. Requires the court, unless it is not in the best interest of the child, to place a child who has been removed under this section with the child's noncustodial parent; or another relative of the child, if placement with the noncustodial parent is inappropriate. Requires the court to render a protective order for a child under Title 4, if the court finds that the child requires protection from family violence by a member of the child's family or household.

SECTION 39. Amends Section 263.101, Family Code, to require the department or other agency appointed as the managing conservator of a child to file a service plan, not later than the 45th day after the date the court renders a temporary order appointing the department as temporary managing conservator of a child under Chapter 262.

SECTION 40. Amends Section 263.105(a), Family Code, to delete text requiring the service plan currently in effect to be filed with the court along with the next required status report.

SECTION 41. Amends Section 263.201, Family Code, to require the court to hold a status hearing to review the child's status and the service plan, rather than permanency plan, developed for the child, not later than a certain date. Provides that a status hearing is not required if the court holds an initial permanency hearing under Section 262.2015, before the date a status hearing is required by this section.

SECTION 42. Amends Section 263.202, Family Code, by adding Subsection (d), to require the court to consider whether to waive the service plan under Section 262.2015, if a service plan with respect to a parent has not been filed with the court.

SECTION 43. Amends Section 263.306, Family Code, to set forth required court actions to occur at each permanency hearing, including placing the child with a person or entity, other than a parent, entitled to service under Chapter 102, if the person or entity is willing and able to provide the child with a safe environment and the placement of the child, rather than return of the child, is in the child's best interest. Requires the court to also review the service plan, permanency report, and other information submitted at the hearing to make certain determinations; and to project a likely date by which the child may be returned to and safely maintained in the child's home, placed for adoption, or placed in permanent managing conservatorship.

SECTION 44. Amends Section 263.402, Family Code, as follows:

Sec. 263.402. New heading: MONITORED RETURN OF CHILD TO PARENT. Deletes text ordering the department to place a child with a relative of the child. Makes a conforming change.

SECTION 45. Amends Section 264.201, Family Code, by adding Subsection (e), to prohibit the department from providing and a court from ordering the department to provide supervision for visitation in a child custody matter, unless the department is a petitioner or intervener in the underlying suit.

SECTION 46. Repealers:

- (1) Section 263.003, Family Code (Voluntary Placements: Suit).
- (2) Section 263.004, Family Code (When Child is at Home).

SECTION 47. (a) Effective date: September 1, 1999.

- (b) Makes application of Sections 1-5, 11, and 13 prospective.
- (c) Makes application of this Act prospective.

SECTION 48. Emergency clause.

SUMMARY OF COMMITTEE CHANGES

SECTION 5.

Amends Section 107.105, Family Code, to prohibit a court from awarding attorney ad litem fees under this chapter against the state, a state agency, or a political subdivision of the state except as provided by this subsection.

SECTION 6.

Amends Section 107.051(c), Family Code, to delete text regarding the department having no interest.

SECTION 7.

Amends Section 108.001(c), Family Code, to provide that the records required under this section to be maintained by the bureau of vital statistics are confidential, except as otherwise provided by law. Deletes text providing that the records of a child placing agency that has ceased operations are confidential and no person is entitled to access to or information from these records except for good cause on an order of the court that rendered the order.

SECTION 8.

Amends Section 108.003, Family Code, to require the clerk of a court that renders a decree of adoption, within a certain time period, to transmit to the central registry of the bureau of vital statistics (bureau) certified reports of adoption that include certain information, including the name and address of each parent, guardian, managing conservator, or other person whose consent to adoption was required or waived under Chapter 162, rather than Chapter 159. Makes a conforming change.

SECTION 9.

Amends Section 108.005, Family Code, to require the bureau to close the records concerning a child, when the bureau receives a record, rather than records, from the distribution clerk showing that continuing, exclusive jurisdiction of a child has been lost due to the adoption of the child. Requires an inquiry concerning a child who has been adopted to be handled as though the child had not previously been the subject of a suit affecting the parent-child relationship. Deletes text prohibiting the bureau from disclosing any information concerning the prior proceedings affecting the child; requiring the bureau to provide the department registry certain information; and existing Subsection (b).

SECTION 10.

Amends Chapter 108, Family Code, by adding Section 108.110, regarding release of information by bureau of vital statistics.

SECTION 11.

Redesignated from proposed SECTION 6.

SECTION 12.

Amends Section 155.204, Family Code, to provide that except as provided by Section 262.203, a motion to transfer by a petitioner or movant is timely if it is made at the time the initial pleadings are filed. Authorizes a party to file a transfer order with the clerk of court of continuing, exclusive jurisdiction, if a transfer order has been rendered by a court exercising jurisdiction under Chapter 262.

SECTION 13.

Redesignated from proposed SECTION 7. Amends Section 156.104(a), Family Code, to restore the proposed struck text in Subsection (a) (2).

SECTION 14.

Redesignated from proposed SECTION 8.

SECTION 15.

Reenacts Sections 161.211(a) and (b), Family Code, as amended by Section 1, Chapter 600, Acts of the 75th Legislature, Regular Session, 1997, and Section 2, Chapter 601, Acts of the 75th Legislature, Regular Session, 1997, as follows:

(a) Provides that, notwithstanding Rule 329, Texas Rules of Civil Procedure, the validity of an order terminating the parental rights of a person who has been personally served or who has executed an affidavit of relinquishment of parental rights or an affidavit of waiver of interest in a child or whose rights have been terminated under Section 161.002(b) is not subject to collateral or direct attack after the sixth month after the date the order was signed.

(b) Provides that, notwithstanding Rule 329, Texas Rules of Civil Procedure, the validity of an order terminating the parental rights of a person who is served by citation by publication is not subject to collateral or direct attack after the sixth month after the date the order was signed.

SECTION 16.

Amends Section 162.008(b), Family Code, to prohibit a petition for adoption from being granted until certain documents have been filed, including a certificate from the bureau, rather than department, acknowledging receipt of the report, if a report is required to be submitted to the bureau, rather than department, under Section 162.006(e).

SECTION 17.

Amends Section 261.101(d), Family Code, to provide that unless waived in writing by the person making the report, the identity of an individual making a report under this chapter is confidential and may be disclosed only in certain ways, including as provided by Section 261.201. Deletes text providing that the identity of an individual making a report under this chapter is confidential and may be disclosed in certain ways, including on the order of a court rendered under Section 261.201. Makes conforming changes.

SECTION 18.

Amends Section 261.201, Family Code, by amending Subsections (b) and (c), and adding Subsection (h), to authorize a court to order the disclosure of information that is confidential under this section under certain conditions, including if after a hearing and during an in-camera review of the requested information, the court determines that the disclosure of the requested information is not likely to endanger the life or safety of certain persons, including any other person who participates in an investigation of reported abuse or neglect or who provides care for the child. Provides that this section does not apply to an investigation of child abuse or neglect in a home or facility regulated under Chapter 42, Human Resources Code.

SECTION 19.

Amends Section 261.301(d), Family Code, to require the department, in conducting an investigation for a facility operated, licensed, certified, registered, or listed by the department, to perform the investigation as provided by Subchapter E, and the Human Resources Code.

SECTION 20.

Amends Section 261.303, Family Code, by amending Subsection (c) and adding Subsection (d), to require the court having family law jurisdiction, for good cause shown, to order the records to be released or the examination to be made at the times and places designated by the court, if a parent or person responsible for the child's care does not consent to release of the child's prior medical, psychological, or psychiatric records or to a medical, psychological, or psychiatric examination of the child that is requested by the department or designated agency. Requires a person, including a medical facility, that makes a report under Subchapter B to release to the department or designated agency, as part of the required report under Section 261.103, records that directly relate to the suspected abuse or neglect without requiring parental consent or a court order.

SECTION 21.

Amends Sections 261.305(a)-(c), Family Code, to authorize an investigation to include an inquiry into the possibility that a parent or a person responsible for the care of a child who is the subject of a report under Subchapter B has a history of medical or mental illness. Requires the court having family law jurisdiction, for good cause shown, to order an examination to be made or that the department or agency be permitted to have access to the records under terms and conditions prescribed by the court, if the parent or person does not consent to an examination or allow the department or designated agency to have access to medical or mental health records requested by the department or agency. Requires the court to appoint an attorney to represent the parent or person at the hearing, if the court determines that the parent or person is indigent. Requires the fees for the appointed attorney to be paid as provided by Chapter 107. Deletes text requiring the court to appoint an attorney to represent the parent or person responsible for the child at the hearing to obtain medical or mental health records, if the court determines that the parent or person responsible for the care of the child is indigent. Deletes text requiring the fees for the appointed attorney to be paid by the department or designated agency.

SECTION 22.

Reenacts Section 261.405, Family Code, as amended by Chapters 162 and 1374, Acts of the 75th Legislature, Regular Session, 1997, regarding investigations in pre-adjudication and post-adjudication secure juvenile facilities.

SECTION 23.

Amends Section 261.406(b), Family Code, to require the department to send a written report of the department's investigation, as appropriate, to the Texas Education Agency, the agency responsible for teacher certification, the local school board or the school's governing body, and the school principal or director for appropriate action, unless the principal or director is alleged to have committed the abuse or neglect. Requires the report of investigation to be edited to protect the identity of the persons who made the report of abuse or neglect. Deletes text providing information for the report of abuse or neglect.

SECTION 24.

Amends Chapter 262, Family Code, by adding a new heading.

SECTION 25.

Amends Section 262.001, Family Code, to provide that in determining the reasonable efforts that are required to be made with respect to preventing or eliminating the need to remove a child from the child's home or to make it possible to return a child to the child's home, the child's health and safety is the paramount concern. Makes conforming changes.

SECTION 26.

Amends Section 262.002, Family Code, to amend the heading and to authorize a suit brought by a governmental entity requesting an order under this chapter to be filed in a court with jurisdiction to hear the suit in the county in which the child is found.

SECTION 27.

Amends Section 262.007, Family Code, to authorize the department, until a person entitled to possession of the child takes possession of the child, without a court order, to retain possession of the child not longer than five days, rather than 14 days, after the date the child is delivered to the department. Requires the department to proceed under this chapter as if the law enforcement officer took possession of the child under Section 262.104, if a parent or other person entitled to possession of the child does not take possession of the child before the 6th day, rather than 15th day, after the date the child is delivered to the department.

SECTION 28.

Amends the heading for Subchapter B, Chapter 262, Family Code.

SECTION 29.

Amends Section 262.101, Family Code, to require an original suit filed by a governmental entity that requests permission to take possession of a child without prior notice and a hearing to be supported by an affidavit sworn by a person with personal knowledge and stating facts sufficient to satisfy a person of ordinary prudence and caution of certain negative possible outcomes. Deletes text requiring a petition or affidavit to be filed by a governmental entity requesting permission to take possession of a child in an emergency to be sworn to by a person with personal knowledge and shall state facts sufficient to satisfy a person of ordinary prudence and caution of certain negative possible outcomes.

SECTION 30.

Amends Section 262.102(a), Family Code, to provide that before a court may, without prior written notice and a hearing, issue a temporary restraining order or attachment of a child in a suit brought by a government entity, the court must find certain negative possible outcomes exist, including that there is an immediate danger to the physical health or safety of the child or the child has been a victim of neglect or sexual abuse and that the continuation in the home would be contrary to the child's welfare.

SECTION 31.

Amends Section 262.106, Family Code, by adding Subsection (d), to provide that for the first working day after the date the child is taken into possession, the child is considered to have been taken into possession by the department on the expiration of the five-day period permitted under Section 262.007(c) or 262.110(b), as appropriate.

SECTION 32.

Amends Section 262.109(d), Family Code, to authorize the written notice to be waived by the

court at the initial hearing on showing that the parents, conservators, or other custodians of the child could not be located, or for other good cause.

SECTION 33.

Amends Section 262.110, Family Code, to authorize the department, until a parent or other person entitled to possession of the child takes possession of the child, to retain possession of the child without a court order for not more than five days. Requires the department, on the expiration of the fifth day, to take action under this chapter as if the department took possession of the child under Section 262.104, if a parent or other person entitled to possession does not take possession of the child. Makes a conforming change.

SECTION 34.

Amends Chapter 262B, Family Code, by adding Section 262.113, regarding filing suit without taking possession of child.

SECTION 35.

Amends Section 262.201, Family Code, by adding Subsection (g), to provide that for the purpose of determining under Subsection (a), the 14th day after the date the child is taken into possession, a child is considered to have been taken into possession by the department on the expiration of the five-day period permitted under Section 262.007(c) or 262.110(b), as appropriate.

SECTION 36.

Amends Section 262.2015, Family Code, to create a new heading and to authorize the court to waive the requirement of a service plan and the requirement to make reasonable efforts to return the child to a parent and may accelerate the trial schedule to result in a final order for a child under the care of the department at an earlier date than provided by Chapter 263D, if a court finds that all reasonable efforts have been made to return the child to a parent or that the parent has subjected the child to aggravated circumstances. Authorizes the court to find under Subsection (a), that a parent has subjected a child to aggravated circumstances if the parent abandoned the child without identification or a means of indentifying the child; the child is a victim of serious bodily injury or sexual abuse inflicted by the parent or by another person with the parent's consent; the parent has engaged in conduct against the child or against another child of the parent that would constitute an offense under certain provisions of certain Penal Codes, including Section 19.02 (murder), Section 19.03 (capital murder), and Section 19.04 (manslaughter); the parent voluntarily left the child alone or in the possession of another person not the parent of the child for at least six months without expressing the intent to return and without providing adequate support for the child; or the parent's parental rights with regard to another child have been involuntarily terminated based on a finding that the parent's conduct violated Section 161.001(1) (D) or (E) or a substantially equivalent provision of another state's law. Requires the court, on finding that reasonable efforts to prevent or eliminate the need to remove the child or to make it possible for the child to safely return to the child's home are not required, at any time before the 30th day after the date of the finding, to conduct an initial permanency hearing under Chapter 263D. Provides that separate notice of the permanency plan is not required but may be given with a notice of a hearing under this section. Requires the department to make reasonable efforts to finalize the permanent placement of a child for whom the court has made the finding described by Subsection (c). Requires the court to set the suit for trial on the merits as required by Chapter 263D, in order to facilitate final placement of the child.

SECTION 37.

Amends Section 262.203, Family Code, to require the court that rendered a temporary order, on the motion of a party or the court's own motion, if applicable, in accordance with procedures provided by Chapter 155, to transfer the suit to the court of continuing, exclusive jurisdiction, if any; if grounds exist for mandatory transfer from the court of continuing, exclusive jurisdiction under Section 155.201, order transfer of suit from that court; or if grounds exist for transfer based on improper venue, order transfer of the suit to the court having venue of the suit under Chapter 103. Authorizes, notwithstanding Section 155.204, a motion to transfer relating to a suit filed

under this chapter to be filed separately from the petition and is timely if filed while the case is pending. Provides that notwithstanding Sections 6.407 and 103.002, a court exercising jurisdiction under this chapter is not required to transfer the suit to a court in which a parent has filed a suit for dissolution of marriage before a final order for the protection of the child has been rendered under Chapter 263E.

SECTION 38.

Amends Chapter 262C, Family Code, by adding Section 262.205, regarding hearing when a child is not in the possession of a governmental entity.

SECTION 39.

Amends Section 263.101, Family Code, to require the department or other agency appointed as the managing conservator of a child to file a service plan, not later than the 45th day after the date the court renders a temporary order appointing the department as temporary managing conservator of a child under Chapter 262.

SECTION 40.

Amends Section 263.105(a), Family Code, to delete text requiring the service plan currently in effect to be filed with the court along with the next required status report.

SECTION 41.

Amends Section 263.201, Family Code, to require the court to hold a status hearing to review the child's status and the service plan, rather than permanency plan, developed for the child, not later than a certain date. Provides that a status hearing is not required if the court holds an initial permanency hearing under Section 262.2015, before the date a status hearing is required by this section.

SECTION 42.

Amends Section 263.202, Family Code, by adding Subsection (d), to require the court to consider whether to waive the service plan under Section 262.2015, if a service plan with respect to a parent has not been filed with the court.

SECTION 43.

Amends Section 263.306, Family Code, to set forth required court actions to occur at each permanency hearing, including placing the child with a person or entity, other than a parent, entitled to service under Chapter 102, if the person or entity is willing and able to provide the child with a safe environment and the placement of the child, rather than return of the child, is in the child's best interest. Requires the court to also review the service plan, permanency report, and other information submitted at the hearing to make certain determinations; and to project a likely date by which the child may be returned to and safely maintained in the child's home, placed for adoption, or placed in permanent managing conservatorship.

SECTION 44.

Amends Section 263.402, Family Code, to create a new heading and to delete text ordering the department to place a child with a relative of the child. Makes a conforming change.

SECTION 45.

Amends Section 264.201, Family Code, by adding Subsection (e), to prohibit the department from providing and a court from ordering the department to provide supervision for visitation in a child custody matter, unless the department is a petitioner or intervener in the underlying suit.

SECTION 46.

Adds repealers.

SECTION 47.

Redesignated from proposed SECTION 9. Makes application of Sections 1-5, 11, and 13 prospective. Makes a conforming change.

SECTION 48.

Redesignated from proposed SECTION 10.