

## **BILL ANALYSIS**

Senate Research Center  
76R11931 KLA-F

H.B. 3423  
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Health Services  
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Engrossed

### **DIGEST**

Current law does not authorize a provider of emergency medical services to take possession of an unwanted baby. If a parent of an unwanted baby left the baby at an emergency medical facility, the baby could receive any necessary medical attention and could then be turned over to the Department of Protective and Regulatory Services for the next steps. H.B. 3423 would set forth requirements for emergency possession of and termination of the parent-child relationship of certain abandoned children.

### **PURPOSE**

As proposed, H.B. 3423 sets forth requirements for emergency possession of and termination of the parent-child relationship of certain abandoned children.

### **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 161.001, Family Code, to authorize a court to order termination of the parent-child relationship if the court finds by clear and convincing evidence that the parent has been the cause of the child being born addicted to alcohol or a controlled substance, other than a controlled substance legally obtained by prescription, as defined by Section 261.001 or voluntarily delivered the child to emergency medical services provided under Section 262.301 without expressing an intent to return for the child, rather than Section 261.001(7).

SECTION 2. Amends Chapter 262D, Family Code, by adding Subchapter D, as follows:

#### **SUBCHAPTER D. EMERGENCY POSSESSION OF CERTAIN ABANDONED CHILDREN.**

Sec. 262.301. ACCEPTING POSSESSION OF CERTAIN ABANDONED CHILDREN. Requires an emergency medical services provider licensed under Chapter 773, Health and Safety Code, without a court order, to take possession of a child who is 30 days old or younger if the child is voluntarily delivered to the provider by the child's parent and the parent did not express an intent to return for the child. Requires an emergency medical services provider who takes possession of a child under this section to perform any act necessary to protect the physical health or safety of the child.

Sec. 262.302. NOTIFICATION OF POSSESSION OF ABANDONED CHILD. Requires the provider to notify the Department of Protective and Regulatory Services (DPRS) that the provider has taken possession of the child, not later than a certain date. Require DPRS to assume the care, control, and custody of the child immediately on receipt of notice under Subsection (a).

Sec. 262.303. FILING PETITION AFTER ACCEPTING POSSESSION OF ABANDONED CHILD. Requires a child for whom the DPRS assumes care, control, and custody under Section 262.302, to be treated as a child taken into possession without a court order, and the DPRS to take action as required by Section 262.105 with regard to the child.

SECTION 3. Amends Section 22.041, Penal Code, by adding Subsection (h), to provide that it is an affirmative defense to prosecution under Subsection (b) that the actor voluntarily delivered the child to an emergency medical services provider under Section 262.301, Family Code.

SECTION 4. Makes the change in law made by Section 161.001, Family Code, prospective.

SECTION 5. Makes the change in law made by Section 22.041(h), Penal Code, prospective.

SECTION 6. Effective date: September 1, 1999.

SECTION 7. Emergency clause.