

By: Wu

H.B. No. 418

A BILL TO BE ENTITLED

AN ACT

relating to child victims of trafficking who are placed in the managing conservatorship of the Department of Family and Protective Services.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter A, Chapter 262, Family Code, is amended by adding Section 262.011 to read as follows:

Sec. 262.011. PLACEMENT IN SECURE FOSTER HOME OR SECURE AGENCY FOSTER GROUP HOME. A court in an emergency, initial, or full adversary hearing conducted under this chapter may order that the child who is the subject of the hearing be placed in a secure foster home or secure agency foster group home established under Section 42.0531, Human Resources Code, if the court finds that the placement is in the best interest of the child and the child's physical health or safety is in danger because the child has been a victim of trafficking under Section 20A.02, Penal Code.

SECTION 2. Section 262.104(a), Family Code, is amended to read as follows:

(a) If there is no time to obtain a temporary restraining order or attachment before taking possession of a child consistent with the health and safety of that child, an authorized representative of the Department of Family and Protective Services, a law enforcement officer, or a juvenile probation officer may take possession of a child without a court order under the following

1 conditions, only:

2 (1) on personal knowledge of facts that would lead a  
3 person of ordinary prudence and caution to believe that there is an  
4 immediate danger to the physical health or safety of the child;

5 (2) on information furnished by another that has been  
6 corroborated by personal knowledge of facts and all of which taken  
7 together would lead a person of ordinary prudence and caution to  
8 believe that there is an immediate danger to the physical health or  
9 safety of the child;

10 (3) on personal knowledge of facts that would lead a  
11 person of ordinary prudence and caution to believe that the child  
12 has been the victim of sexual abuse or of trafficking under Section  
13 20A.02, Penal Code;

14 (4) on information furnished by another that has been  
15 corroborated by personal knowledge of facts and all of which taken  
16 together would lead a person of ordinary prudence and caution to  
17 believe that the child has been the victim of sexual abuse or of  
18 trafficking under Section 20A.02, Penal Code; or

19 (5) on information furnished by another that has been  
20 corroborated by personal knowledge of facts and all of which taken  
21 together would lead a person of ordinary prudence and caution to  
22 believe that the parent or person who has possession of the child is  
23 currently using a controlled substance as defined by Chapter 481,  
24 Health and Safety Code, and the use constitutes an immediate danger  
25 to the physical health or safety of the child.

26 SECTION 3. Section 262.107(a), Family Code, is amended to  
27 read as follows:

(a) The court shall order the return of the child at the initial hearing regarding a child taken in possession without a court order by a governmental entity unless the court is satisfied that:

(1) there is a continuing danger to the physical health or safety of the child if the child is returned to the parent, managing conservator, possessory conservator, guardian, caretaker, or custodian who is presently entitled to possession of the child or the evidence shows that the child has been the victim of sexual abuse or of trafficking under Section 20A.02, Penal Code, on one or more occasions and that there is a substantial risk that the child will be the victim of sexual abuse or of trafficking in the future;

(2) continuation of the child in the home would be contrary to the child's welfare; and

(3) reasonable efforts, consistent with the circumstances and providing for the safety of the child, were made to prevent or eliminate the need for removal of the child.

SECTION 4. Section 262.201(b), Family Code, is amended to read as follows:

(b) At the conclusion of the full adversary hearing, the court shall order the return of the child to the parent, managing conservator, possessory conservator, guardian, caretaker, or custodian entitled to possession unless the court finds sufficient evidence to satisfy a person of ordinary prudence and caution that:

(1) there was a danger to the physical health or safety of the child, including a danger that the child would be a victim of

1 trafficking under Section 20A.02, Penal Code, which was caused by  
2 an act or failure to act of the person entitled to possession and  
3 for the child to remain in the home is contrary to the welfare of the  
4 child;

5 (2) the urgent need for protection required the  
6 immediate removal of the child and reasonable efforts, consistent  
7 with the circumstances and providing for the safety of the child,  
8 were made to eliminate or prevent the child's removal; and

9 (3) reasonable efforts have been made to enable the  
10 child to return home, but there is a substantial risk of a  
11 continuing danger if the child is returned home.

12 SECTION 5. Subchapter C, Chapter 42, Human Resources Code,  
13 is amended by adding Section 42.0531 to read as follows:

14 Sec. 42.0531. SECURE FOSTER HOMES AND SECURE AGENCY FOSTER  
15 GROUP HOMES. (a) The commissioners court of a county or governing  
16 body of a municipality may establish or contract with another  
17 person for the establishment of a secure foster home or secure  
18 agency foster group home to provide a safe, separate, and  
19 therapeutic environment tailored to the needs of children who are  
20 found by a court in a hearing conducted under Chapter 262, Family  
21 Code, to be victims of trafficking under Section 20A.02, Penal  
22 Code, and who are placed in the managing conservatorship of the  
23 department.

24 (b) A secure foster home or secure agency foster group home  
25 may not provide secure foster services under this section unless it  
26 holds a license issued under this chapter, complies with all  
27 applicable department rules and standards adopted under this

chapter, and holds a certificate of authority issued by the department to provide secure foster services under this section.

(c) The executive commissioner shall adopt the rules and establish the license qualifications and the department shall establish the application procedures necessary to implement this section to protect the health and safety of child victims of trafficking.

(d) A secure foster home or secure agency foster group home established under this section must provide:

(1) mental health and other services specifically designed to assist children who are victims of trafficking under Section 20A.02, Penal Code, including:

- (A) victim and family counseling;
- (B) behavioral health care;
- (C) treatment and intervention for sexual assault;
- (D) education tailored to the child's needs;
- (E) life skills training;
- (F) mentoring; and
- (G) substance abuse screening and treatment as needed;

(2) individualized services based on the trauma endured by a child, as determined through comprehensive assessments of the service needs of the child;

(3) 24-hour services; and

(4) appropriate security through facility design, hardware, technology, and staffing.

1           SECTION 6. Not later than December 1, 2015, the executive  
2 commissioner of the Health and Human Services Commission shall  
3 adopt the rules and license qualifications and the Department of  
4 Family and Protective Services shall establish the application  
5 procedures necessary to implement the changes in law made by this  
6 Act.

7           SECTION 7. This Act takes effect September 1, 2015.