

CHAPTER 768

H.B. No. 2423

An Act relating to the reporting of child abuse and taking possession without a court order of a child suspected to be a child abuse victim.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 17.03, Family Code, is amended by amending Subsection (a) and adding Subsection (i) to read as follows:

(a) An authorized representative of the Texas Department of Human Resources, a law enforcement officer, or a juvenile probation officer may take possession of a child without a court order under the following conditions and no others:

(1) upon discovery of a child in a situation of danger to the child's physical health or safety when the sole purpose is to deliver the child without unnecessary delay to the parent, managing conservator, possessory conservator, guardian, caretaker, or custodian who is presently entitled to possession of the child;

(2) upon the voluntary delivery of the child by the parent, managing conservator, possessory conservator, guardian, caretaker, or custodian who is presently entitled to possession of the child;

(3) upon personal knowledge of facts which would lead a person of ordinary prudence and caution to believe that there is an immediate danger to the physical health or safety of the child and that there is no time to obtain a temporary restraining order or attachment under Section 17.02 of this code;

(4) upon information furnished by another which has been corroborated by personal knowledge of facts and all of which taken together would lead a person of ordinary prudence and caution to believe that there is an immediate danger to the physical health or safety of the child and that there is no time to obtain a temporary restraining order or attachment under Section 17.02 of this code;

(5) upon personal knowledge of facts that would lead a person of ordinary prudence and caution to believe that the child has been the victim of sexual abuse *and that there is no time to obtain a temporary restraining order or attachment under Section 17.02 of this code* ; or

(6) upon information furnished by another that has been corroborated by personal knowledge of facts and all of which taken together would lead a person of ordinary prudence

and caution to believe that the child has been the victim of sexual abuse *and that there is no time to obtain a temporary restraining order or attachment under Section 17.02 of this code.*

(i) When a representative of the Texas Department of Human Resources or other agency takes possession of a child under Subsection (a)(3), (a)(4), (a)(5), or (a)(6) of this section, the department or other agency must give written notice as prescribed by this subsection to the child's parent or a legal guardian. The written notice must be given as soon as practicable, but in any event, prior to the hearing required by Subsection (c) of this section. The written notice may be waived by the court at the hearing held under Subsection (c) of this section on a showing by the Texas Department of Human Resources or other agency taking possession of the child that the parents or legal guardian of the child could not be located. The written notice must include:

(1) the reasons why the department or agency is taking possession of the child and the facts that led the department to believe that the child should be taken into custody;

(2) the name of the person at the department or agency that the parent or other custodian may contact for information relating to the child or any legal proceeding relating to the child;

(3) a summary of legal rights of parents or other custodians under this chapter and an explanation of the probable legal procedures relating to the child; and

(4) a statement that the parent or other custodian has the right to hire an attorney.

SECTION 2. Section 34.02(d), Family Code, is amended to read as follows:

(d) An oral report shall be made immediately on learning of the abuse or neglect, or likelihood of abuse or neglect, as prescribed in Subsection (a) of this section. If a professional has cause to believe that a child has been or may be abused or neglected, the professional shall make an oral report as prescribed by Subsection (a) of this section not later than the 48th hour after the hour the professional first suspects that the child has been or may be abused or neglected. In all instances [; and] a written report shall be made within five days to the same agency or department. Anonymous reports, while not encouraged, will be received and acted on in the same manner as acknowledged reports. In this subsection, "professional" means an individual who is licensed or certified by the state, or who is an employee of a facility licensed, certified, or operated by the state, and who in the normal course of official duties, or duties for which a license or certification is required, has direct contact with children. "Professional" includes teachers, nurses, doctors, and day-care employees.

SECTION 3. Chapter 34, Family Code, is amended by adding Section 34.031 to read as follows:

Sec. 34.031. FALSE REPORT. If, in connection with a pending suit affecting the parent-child relationship, one parent of a child makes a report alleging child abuse by the other parent that the parent making the report knows lacks factual foundation, the report shall be deemed a knowingly false report. Evidence of a false report shall be admissible in any suit between the parents involving terms of conservatorship.

SECTION 4. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed by the House on May 17, 1985, by a non-record vote; House concurred in Senate amendments to H.B. No. 2423 on May 27, 1985, by a non-record vote; passed by the Senate, with amendments, on May 26, 1985, by the following vote: Yeas 31, Nays 0.

Approved: June 14, 1985

Effective: August 26, 1985