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SYNOPSIS:

Under existing law, a circuit or district court, pending a petition for divorce or legal separation, may issue orders regarding custody of the children for the safety and well-being of the children.

This bill would allow a circuit or district judge to issue an ex parte order of protection or restraint in certain circumstances.

A BILL
TO BE ENTITLED
AN ACT

Relating to child custody; to add Section 30-3-11 to the Code of Alabama 1975, to allow a circuit or district court to issue an ex parte order of protection or restraint in certain circumstances.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 30-3-11 is added to the Code of Alabama 1975, to read as follows:

§30-3-11

(a) For the purposes of this section, "department" means the local county Department of Human Resources as defined in Section 38-2-8.



29 (b) Pending all petitions for divorce or legal
30 separation, or other actions seeking modification,
31 interpretation, or enforcement of a final decree, the court
32 may issue an emergency ex parte order of protection or
33 restraint upon it making specific findings of evidence of
34 abuse or neglect of a child, as defined in Section 26-14-1.

35 (c) The court entering an emergency ex parte order may
36 order the child removed from his or her parent or legal
37 custodian and placed into the custody of an appropriate
38 relative as determined by the court. If no relative is found,
39 the court may place the child into the temporary protective
40 custody of the department. The court shall include in its
41 order specific findings that no parent or legal custodian of
42 the child is able to provide appropriate care and protection
43 to the child based on the evidence the court relied upon and
44 that it is contrary to the welfare of the child to remain in
45 the home.

46 (d) Immediate verbal and written notice and copies of
47 the order shall be given to the department pursuant to Section
48 26-14-3. Upon notice, the department shall proceed in
49 accordance with the duties set forth under Chapter 14 of Title
50 26. The department may give or cause to be given effective
51 consent for medical, dental, health, and hospital services as
52 needed for the child.

53 (e) The emergency ex parte order shall terminate upon
54 the expiration of 72 hours unless a petition is filed by the
55 relative or the department with a juvenile court exercising
56 jurisdiction pursuant to Section 12-15-114. The juvenile court



57 may ratify the emergency ex parte order upon the filing of a
58 petition. The juvenile court must conduct a hearing within 72
59 hours of its order pursuant to Section 12-15-308.

60 Section 2. This act shall become effective on June 1,
61 2024.