

## **BILL ANALYSIS**

C.S.H.B. 1449  
By: Thompson, Senfronia  
Juvenile Justice & Family Issues  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Typically, a court will order a social study to assist with gathering information on a child and making recommendations on adoption, custody, or possession and access to the child. A court can make an order for a social study in private child custody litigation as well as in cases involving child protective services. Given the importance of the decision being made, there are concerns that the qualifications a person must meet to perform these evaluations are inadequate and that the process lacks necessary uniform standards and rules. C.S.H.B. 1449 seeks to alleviate these concerns.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill expressly does one or more of the following: creates a criminal offense, increases the punishment for an existing criminal offense or category of offenses, or changes the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to an agency that issues a license to an individual qualified to conduct a child custody evaluation, including the Texas State Board of Examiners of Psychologists, the Texas State Board of Examiners of Professional Counselors, the Texas State Board of Social Worker Examiners, the Texas State Board of Examiners of Marriage and Family Therapists, and the Texas Medical Board in SECTION 1.06 of this bill.

### **ANALYSIS**

C.S.H.B. 1449 amends the Family Code to replace certain language in statutory provisions relating to a court-ordered social study in certain suits affecting the parent-child relationship involving the adoption of a child, conservatorship of a child, or possession of or access to a child with language relating to the preparation of a child custody evaluation regarding conservatorship of a child or possession of or access to a child and to establish provisions requiring the court to order the performance of an adoption evaluation.

C.S.H.B. 1449 defines "child custody evaluation" as an evaluative process ordered by a court in a contested case relating to a suit affecting the parent-child relationship through which information, opinions, recommendations, and answers to specific questions asked by the court may be made regarding the conservatorship of a child, the possession of or access to a child, or any other issue affecting the best interest of a child and through which such information, opinions, recommendations, and answers may be made to the court, the parties to the suit, the parties' attorneys, and any other person appointed by the court in the suit. The bill specifies that a child custody evaluation does not include services provided in accordance with the Interstate Compact on the Placement of Children or an evaluation of identified relatives and other designated individuals for purposes of placing a child conducted by an employee of or contractor

with the Department of Family and Protective Services (DFPS). The bill prohibits DFPS from conducting a child custody evaluation and establishes that the bill's provisions regarding child custody evaluations do not apply to DFPS or a suit to which DFPS is a party. The bill establishes that a certain mental health examination described by Texas Rules of Civil Procedure does not by itself satisfy the requirements for a child custody evaluation. The bill authorizes the inclusion of such a mental health examination in the required child custody evaluation report and authorizes reliance on the mental health examination by the child custody evaluator to the extent the evaluator considers such reliance appropriate under the circumstances.

C.S.H.B. 1449 specifies that a court may order the preparation of a child custody evaluation only after notice and hearing or on agreement of the parties and includes among the issues or questions that may be addressed by a child custody evaluation any issue or question relating to the suit at the request of the court before or during the evaluation process. The bill prohibits a court from appointing a child custody evaluator in a suit involving a nonparent seeking conservatorship of a child unless, after notice and hearing or on agreement of the parties, the court makes a specific finding that good cause has been shown for the appointment of a child custody evaluator. The bill requires an order for a child custody evaluation to include the name of each person conducting the evaluation, the purpose of the evaluation, and the specific issues or questions to be addressed in the evaluation. The bill removes statutory provisions relating to the authorization and appointment of certain persons and entities to conduct a social study.

C.S.H.B. 1449 removes an exemption from the minimum child custody evaluator qualifications for certain individuals and removes from those qualifications the requirement that an appropriately licensed individual have at least a bachelor's degree from an accredited college or university in a human services field of study. The bill includes among the minimum qualifications of an evaluator that an appropriately licensed individual have at least a master's degree from an accredited college or university in a human services field of study or have a license to practice medicine in Texas and a board certification in psychiatry. The bill specifies, for purposes of the minimum qualifications, that the required field experience must be acquired after completing an applicable master's degree and that the required court-ordered child custody evaluations must be performed after obtaining an applicable license. The bill adds as an alternative qualification for an individual employed by a domestic relations office who conducts child custody evaluations as ordered by a court that the person is under contract with a domestic relations office. The bill expands the individuals considered to have met the minimum child custody qualifications to include an individual who has a doctoral degree, holds a license in a human services field of study, has completed continuing education or professional development directly related to the performance of child custody evaluations and the number of hours of which satisfy the licensing requirements for the individual's license, and, after completing the required continuing education or professional development, has participated in at least 10 court-ordered child custody evaluations in consultation with a person who is qualified to perform child custody evaluations and meets any requirements imposed by the agency that issues the individual's license. The bill authorizes the agency that issues the license to such an individual to determine by rule the courses, internships, practicums, or other professional preparatory activities that satisfy the continuing education and professional development and the court-ordered evaluations.

C.S.H.B. 1449 requires the court to determine whether the qualifications of a child custody evaluator satisfy the specified requirements and requires a child custody evaluator to demonstrate, if requested, appropriate knowledge and competence in child custody evaluation services consistent with professional models, standards, and guidelines. The bill authorizes a court in a county with a population of less than 500,000, if the court finds that an individual who meets the requirements is not available in the county to conduct a child custody evaluation in a timely manner and after notice and hearing, to appoint an individual the court determines to be otherwise qualified to conduct the evaluation. The bill requires such an appointed individual to comply with all statutory provisions applicable to child custody evaluations, with the exception of the minimum child custody evaluator qualifications.

C.S.H.B. 1449 sets out requirements regarding the disclosure of certain conflicts of interest and potential biases by a person who may be or has been appointed as a child custody evaluator and prohibits the appointment of and provides for the resignation or continued appointment of a person who makes a disclosure under certain circumstances. The bill prohibits the appointment of an individual who has worked in a professional capacity with a party to the suit, a child who is the subject of the suit, or a member of the party's or child's family who is involved in the suit but does not prohibit the appointment of an individual who has worked only as a teacher of parenting skills in a group setting, with no individualized interaction, or who has worked only as a child custody evaluator who performed a previous evaluation. The bill requires a child custody evaluator who has worked as a teacher of parenting skills in a group setting that included a party, a child, or another person who will be the subject of an evaluation or has worked as a child custody evaluator for a previous evaluation to notify the court, the attorney of each represented party and, if applicable, any unrepresented party. The bill removes a provision relating to the appointment of a DFPS employee to conduct a social study under certain circumstances.

C.S.H.B. 1449 requires a child custody evaluator to state the extent to which information obtained limits the reliability and validity of the opinion and the conclusions and recommendations of the evaluator in the child custody evaluation report. The bill removes the authorization for a child custody evaluator who has evaluated only one side of a contested suit to state whether the party evaluated appears suitable for conservatorship and instead authorizes such an evaluator to state whether any information obtained regarding a child's placement with a party indicates concerns for the safety of the child, the party's parenting skills or capability, the party's relationship with the child, or the mental health of the party. The bill specifies that a child custody evaluation report must include, among other information, a statement that the child custody evaluator has read and meets the minimum child custody evaluator requirements.

C.S.H.B. 1449 prohibits a child custody evaluator from offering an opinion regarding conservatorship of a child who is the subject of a suit or possession of or access to the child unless each basic element of a child custody evaluation has been completed. The bill requires the child custody evaluator to identify in the required report any basic element or any additional element of a child custody evaluation that was not completed, explain the reasons the element was not completed, and include an explanation of the likely effect of the missing element on the confidence the child custody evaluator has in the evaluator's expert opinion. The bill includes an interview and observation of any child who is not a subject of the suit who lives on a full-time basis in the residence that is the subject of the evaluation among the basic elements of a child custody evaluation but limits such an interview to a child who is at least four years of age. The bill specifies that the interview of each child who is the subject of the suit that is required to be conducted as a basic element of a child custody evaluation must be conducted, regardless of the child's age and during a period of possession of each party to the suit but outside the presence of the party and that the observation of each child who is the subject of the suit must be in the presence of each party to the suit, including, as appropriate, during supervised visitation, unless contact between a party and a child is prohibited by court order or the person conducting the evaluation has good cause for not conducting the observation and states the good cause in writing provided to the parties to the suit before the completion of the evaluation. The bill includes the following as collateral sources of relevant information relating to a suit that must be obtained as a basic element of an evaluation: relevant school records; relevant physical and mental health records of each party to the suit and each child who is the subject of the suit; relevant DFPS records; criminal history record information relating to each child who is the subject of the suit, each party to the suit, and each person who lives with a party to the suit; and any other collateral source that may have relevant information.

C.S.H.B. 1449 includes the following among the additional elements of a child custody evaluation: observation of a child who is the subject of the suit with each adult who lives in a residence that is the subject of the evaluation; an interview of a child who is at least four years of age, who is not the subject of the suit, and who lives on a full-time or part-time basis in a

residence that is the subject of the evaluation; observation of a child who is not the subject of the suit and who lives on a full-time or part-time basis in a residence that is the subject of the evaluation; psychometric testing, if necessary; and the performance of other tasks requested of the evaluator by the court, including a joint interview of the parties to the suit or the review of any other information that the court determines is relevant. The bill specifies that an interview of each individual residing in a residence subject to the child custody evaluation that is included as an additional element of an evaluation applies to an individual, including a child who is at least four years of age, residing in the residence on a full-time or part-time basis.

C.S.H.B. 1449 authorizes a child custody evaluator to conduct psychometric testing as part of a child custody evaluation under certain conditions and establishes that selection of a specific psychometric test is at the professional discretion of the child custody evaluator based on the specific issues raised in the suit. The bill limits a child custody evaluator's use of psychometric tests to situations where the evaluator is familiar with the reliability, validation, and related standardization or outcome studies of, and proper applications and use of, the tests within a forensic setting. The bill authorizes a child custody evaluator who considers psychometric testing necessary but who lacks specialized training or expertise to use the specified tests to designate a qualified licensed psychologist to conduct the testing. The bill requires a child custody evaluator who identifies the presence of a potentially undiagnosed serious mental illness experienced by an individual who is a subject of the child custody evaluation and the evaluator is not qualified by the evaluator's licensure, experience, and training to assess a serious mental illness to make one or more appropriate referrals for a mental examination of the individual. The bill requires the child custody evaluation report to include any information that the evaluator considers appropriate under the circumstances regarding the possible effects of an individual's potentially undiagnosed serious mental illness on the evaluation and the evaluator's recommendations. The bill specifies that a person commits the Class A misdemeanor offense of disclosing certain confidential information obtained from DFPS if the person recklessly discloses the information. The bill establishes recordkeeping and retention requirements for a child custody evaluator and provides for the disclosure of communications and records of an evaluator under certain conditions.

C.S.H.B. 1449 requires a child custody evaluator who conducts a child custody evaluation to prepare and file a report containing the evaluator's findings, opinions, recommendations, and answers to specific questions asked by the court relating to the evaluation and containing the requisite information about the evaluator, unless the suit is settled before completion of the child custody evaluation report, and provides for the introduction and provision of a child custody evaluation report to certain individuals involved in the suit. The bill removes a provision authorizing the compelled testimony of a representative of an agency that conducts a child custody evaluation.

C.S.H.B. 1449 requires a court to order the performance of an adoption evaluation to evaluate each party who requests termination of the parent-child relationship or an adoption in an applicable suit and defines "adoption evaluation" as a pre-placement or post-placement evaluative process through which information and recommendations regarding adoption of a child may be made to the court, the parties, and the parties' attorneys. The bill establishes that an adoption evaluation does not include services provided in accordance with the Interstate Compact on the Placement of Children or a DFPS evaluation of identified relatives and other designated individuals for purposes of placing a child conducted by a DFPS employee or contractor. The bill specifies that its provisions governing an adoption evaluation do not apply to the pre-placement and post-placement parts of an adoption evaluation conducted by a licensed child-placing agency or DFPS, which are governed by rules adopted by the executive commissioner of the Health and Human Services Commission, and establishes the conditions under which a licensed child-placing agency or DFPS is required to conduct and under which a court is authorized to appoint DFPS to conduct the pre-placement and post-placement parts of an adoption evaluation in a suit.

C.S.H.B. 1449 requires an adoption evaluation to include an evaluation of the circumstances and the condition of the home and social environment of any person requesting to adopt a child who is at issue in the suit. The bill authorizes the court to appoint a qualified individual, a qualified private entity, or a domestic relations office to conduct the adoption evaluation and requires the costs of an adoption evaluation to be paid by the prospective adoptive parent. The bill establishes the minimum qualifications of an adoption evaluator and authorizes a court in a county with a population of less than 500,000, if the court finds that an individual who meets the requirements is not available in the county to conduct an adoption evaluation in a timely manner, after notice and hearing, to appoint a person the court determines to be otherwise qualified to conduct the evaluation. The bill requires such an appointed individual to comply with all statutory provisions applicable to adoption evaluations, other than the minimum adoption evaluator qualifications.

C.S.H.B. 1449 sets out requirements regarding the disclosure of certain conflicts of interest and potential biases by a person who may be or has been appointed as an adoption evaluator and prohibits the appointment of and provides for the resignation or continued appointment of a person who makes such a disclosure under certain circumstances. The bill prohibits the appointment of an individual as an adoption evaluator in a suit if the individual has worked in a professional capacity with a party to the suit, a child who is the subject of the suit, or a member of the party's or child's family who is involved in the suit but does not prohibit the appointment of an individual who has worked in such a capacity only as a teacher of parenting skills in a group setting, with no individualized interaction with any party, the child, any party's family, or the child's family, or as a child custody evaluator or adoption evaluator who performed a previous evaluation.

C.S.H.B. 1449 requires an adoption evaluator to report to DFPS any adoptive placement that appears to have been made by someone other than a licensed child-placing agency or a child's parent or managing conservator and establishes requirements relating to the conduct of an adoption evaluator, the manner in which an evaluation is to be conducted, and the preparation of a report on the evaluation. The bill sets out requirements for the pre-placement portion and the post-placement portion of an adoption evaluation, including requirements regarding a report of the adoption evaluator's findings and conclusions made after each portion of the evaluation. The bill provides for the introduction and provision of an adoption evaluation report at trial and for the compelled testimony of a representative of an agency that conducts an adoption evaluation.

C.S.H.B. 1449 requires a court that orders an adoption evaluation to be conducted to award the adoption evaluator a reasonable fee for the preparation of the evaluation that shall be imposed in the form of a money judgment and paid directly to the evaluator and authorizes the evaluator to enforce the judgment for the fee by any means available under law for civil judgments. The bill entitles an adoption evaluator to obtain from DFPS a complete, unredacted copy of any investigative record regarding abuse or neglect that relates to any person residing in the residence subject to the adoption evaluation and provides for the confidentiality and disclosure of such records and related information. The bill makes it a Class A misdemeanor offense for a person to recklessly disclose confidential information obtained from DFPS in violation of the bill's provisions relating to adoption evaluations.

C.S.H.B. 1449 requires a court, in a suit in which the adoption of a child is being contested, to determine the nature of the questions posed before appointing an evaluator to conduct either a child custody evaluation or an adoption evaluation. The bill requires a court attempting to determine whether termination of parental rights is in the best interest of the child who is the subject of the suit to order a child custody evaluation and include termination as one of the specific issues to be addressed in the evaluation. The bill authorizes a court appointing an evaluator to assess the issue of termination of parental rights to modify, through written order, the requirements of the child custody evaluation to take into account the circumstances of the family to be assessed. The bill authorizes the court to appoint the evaluator to concurrently address the requirements for an adoption evaluation if the evaluator recommends that termination of parental rights is in the best interest of the child who is the subject of the suit. The

bill authorizes a court to order an adoption evaluation if the court is attempting to determine whether the parties seeking adoption would be suitable to adopt a child on termination of parental rights but is not attempting to determine whether termination of parental rights is in the child's best interest. The bill establishes that its provisions governing such an evaluation in a contested adoption do not apply to services provided in accordance with the Interstate Compact on the Placement of Children, to an evaluation of identified relatives and other designated individuals for purposes of placing a child conducted by a DFPS employee or contractor, or to a suit in which DFPS is a party.

C.S.H.B. 1449 prohibits a person from offering an expert opinion or recommendation relating to the conservatorship of or possession of or access to a child at issue in a suit unless the person has conducted a child custody evaluation relating to the child but authorizes a mental health professional, in a contested suit, to provide other relevant information and opinions relating to any party that the mental health professional has personally evaluated. The bill exempts a suit in which DFPS is a party from this prohibition.

C.S.H.B. 1449 requires the Texas State Board of Examiners of Psychologists, the Texas State Board of Examiners of Professional Counselors, the Texas State Board of Social Worker Examiners, the Texas State Board of Examiners of Marriage and Family Therapists, and the Texas Medical Board, not later than September 1, 2016, to adopt any rules necessary for license holders to comply with the bill's provisions and rules specifying that a person licensed by any of the boards is subject to the rules of the board that licensed the person when appointed by a court to conduct a child custody evaluation or adoption evaluation. The bill requires the rules to specify that any complaint relating to the outcome of a child custody evaluation, adoption evaluation, or other forensic service conducted by a person licensed by any of the boards must be reported to the court that ordered the evaluation or other forensic services and to require that license holders receive notice that the disclosure of confidential information in violation of the bill's provisions is grounds for disciplinary action. The bill establishes that this provision does not affect the authority of a licensing agency that issues a license to a child custody evaluator to enforce compliance with state law and administrative rules applicable to the license holder.

C.S.H.B. 1449 requires the Texas State Board of Examiners of Psychologists, the Texas State Board of Examiners of Professional Counselors, and the Texas State Board of Examiners of Marriage and Family Therapists, as soon as possible after the bill's effective date, to adopt rules prohibiting a psychological associate, a licensed specialist in school psychology, a provisionally licensed psychologist, a licensed professional counselor intern, and a licensed marriage and family therapist associate from conducting a child custody evaluation unless the person is otherwise qualified to conduct the evaluation.

C.S.H.B. 1449 requires the executive commissioner of the Health and Human Services Commission, as soon as possible after the bill's effective date, to adopt rules prohibiting a licensed chemical dependency counselor from conducting a child custody evaluation as a child custody evaluator unless the person is otherwise qualified to conduct the evaluation or is appointed by a court to conduct the evaluation. The bill requires the executive commissioner, not later than September 1, 2016, to adopt any rules necessary to implement the bill's provisions regarding adoption evaluations. The bill specifies that its provisions regarding adoption evaluations apply to an evaluation ordered by a court on or after September 1, 2016, or the date the executive commissioner adopts the required rules, whichever occurs first. The bill establishes the circumstances under which a person who does not meet the minimum qualifications for a child custody evaluator or an adoption evaluator set out by the bill is considered to be qualified to conduct an evaluation.

C.S.H.B. 1449 amends the Government Code and Human Resources Code to make conforming changes.

C.S.H.B. 1449 repeals the following provisions of the Family Code:

- Section 107.0515
- Section 107.0519
- Section 107.052
- Section 107.053

**EFFECTIVE DATE**

September 1, 2015.

**COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 1449 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED	HOUSE COMMITTEE SUBSTITUTE
ARTICLE 1. CHILD CUSTODY EVALUATION AND ADOPTION EVALUATION	Same as introduced version.
SECTION 1.01. The heading to Chapter 107, Family Code, is amended.	SECTION 1.01. Same as introduced version.
SECTION 1.02. The heading to Subchapter D, Chapter 107, Family Code, is amended.	SECTION 1.02. Same as introduced version.
SECTION 1.03. Section 107.0501, Family Code, is redesignated as Section 107.101, Family Code, and amended to read as follows: Sec. <u>107.101</u> [ <del>107.0501</del> ]. DEFINITIONS. In this subchapter: (1) " <u>Child custody evaluation</u> " [ <del>"Social study"</del> ] means an evaluative process <u>ordered by a court in a contested case through which information, _____ opinions, [and] recommendations, and answers to specific questions asked by the court may be:</u> (A) <u>made regarding:</u> (i) [ <del>adoption of a child,</del> ] <u>conservatorship of a child, including the terms and conditions of conservatorship;</u> (ii) [ <del>or</del> ] <u>possession of or access to a child, including the terms and conditions of possession or access; or</u>	SECTION 1.03. Section 107.0501, Family Code, is redesignated as Section 107.101, Family Code, and amended to read as follows: Sec. <u>107.101</u> [ <del>107.0501</del> ]. DEFINITIONS. In this subchapter: (1) " <u>Child custody evaluation</u> " [ <del>"Social study"</del> ] means an evaluative process <u>ordered by a court in a contested case through which information, _____ opinions, [and] recommendations, and answers to specific questions asked by the court may be:</u> (A) <u>made regarding:</u> (i) [ <del>adoption of a child,</del> ] <u>conservatorship of a child, including the terms and conditions of conservatorship;</u> (ii) [ <del>or</del> ] <u>possession of or access to a child, including the terms and conditions of possession or access; or</u>

(iii) any other issue affecting the best interest of a child; and

(B) ~~[may be]~~ made to the [a] court, the parties to the suit, ~~[and]~~ the parties' attorneys, and any other person appointed under this chapter by the court in the suit. ~~[The term does not include services provided in accordance with the Interstate Compact on the Placement of Children adopted under Subchapter B, Chapter 162, or an evaluation conducted in accordance with Section 262.114 by an employee of or contractor with the Department of Family and Protective Services.]~~

(2) "Child custody ~~["Social study]~~ evaluator" means an individual who conducts a child custody evaluation ~~[social study]~~ under this subchapter. The term includes a private child custody evaluator.

(3) "Department" means the Department of Family and Protective Services.

(4) "Person" includes an agency.

(5) "Private child custody evaluator" means a person conducting a child custody evaluation who is not conducting the evaluation as an employee of or contractor with a domestic relations office.

(6) "Supervision" means the regular review of and consultation with a person. The term does not require the constant physical presence of the person providing supervision and may include telephonic or electronic communication.

SECTION 1.04. Subchapter D, Chapter 107, Family Code, is amended by adding Section 107.102 to read as follows:

Sec. 107.102. APPLICABILITY. (a) For purposes of this subchapter, a child custody evaluation does not include services provided in accordance with the Interstate Compact on the Placement of Children adopted under Subchapter B, Chapter 162, or an evaluation conducted in accordance with Section 262.114 by an employee of or contractor with the department.

(b) Home studies and other evaluations by the department are not required to comply with this subchapter.

(iii) any other issue affecting the best interest of a child; and

(B) ~~[may be]~~ made to the [a] court, the parties to the suit, ~~[and]~~ the parties' attorneys, and any other person appointed under this chapter by the court in the suit. ~~[The term does not include services provided in accordance with the Interstate Compact on the Placement of Children adopted under Subchapter B, Chapter 162, or an evaluation conducted in accordance with Section 262.114 by an employee of or contractor with the Department of Family and Protective Services.]~~

(2) "Child custody ~~["Social study]~~ evaluator" means an individual who conducts a child custody evaluation ~~[social study]~~ under this subchapter. The term includes a private child custody evaluator.

(3) "Department" means the Department of Family and Protective Services.

(4) "Person" includes an agency or a domestic relations office.

(5) "Private child custody evaluator" means a person conducting a child custody evaluation who is not conducting the evaluation as an employee of or contractor with a domestic relations office.

(6) "Supervision" means directing, regularly reviewing, and meeting with a person with respect to the completion of work for which the supervisor is responsible for the outcome. The term does not require the constant physical presence of the person providing supervision and may include telephonic or other electronic communication.

SECTION 1.04. Subchapter D, Chapter 107, Family Code, is amended by adding Sections 107.102 and 107.1025 to read as follows:

Sec. 107.102. APPLICABILITY. (a) For purposes of this subchapter, a child custody evaluation does not include services provided in accordance with the Interstate Compact on the Placement of Children adopted under Subchapter B, Chapter 162, or an evaluation conducted in accordance with Section 262.114 by an employee of or contractor with the department.



(c) The department is not required to:  
(1) obtain a child custody evaluation in cases in which the department is a party; and  
(2) pay for any part of the cost of a child custody evaluation in a case in which the department is a party, unless the department requests the child custody evaluation.

No equivalent provision.

SECTION 1.05. Section 107.051, Family Code, is redesignated as Section 107.103, Family Code, and amended to read as follows:

Sec. 107.103 [~~107.051~~]. ORDER FOR CHILD CUSTODY EVALUATION [~~SOCIAL STUDY~~]. (a) The court, after notice and hearing, may order the preparation of a child custody evaluation regarding:

(1) [~~social study into~~] the circumstances and condition of:

(A) [~~(1)~~] a child who is the subject of a suit;

(B) [~~(2)~~] a party to a suit; and

(C) [~~(3)~~] the residence [~~home~~] of any person requesting conservatorship of, possession of, or access to a child who is the subject of the suit; and

(2) any issue or question relating to the suit at the request of the court before or during the evaluation process.

(b) The court may not appoint a child custody evaluator in a suit involving a nonparent seeking conservatorship of a child unless, after notice and hearing, the court finds that good cause has been shown for the appointment of a child custody evaluator [~~social study may be made by a private entity, a person appointed by the court, a domestic relations office, or a state agency,~~

(b) The department may not conduct a child custody evaluation.

(c) Except as provided by Subsections (a) and (b), this subchapter does not apply to the department or to a suit to which the department is a party.

Sec. 107.1025. EFFECT OF MENTAL EXAMINATION. A mental examination described by Rule 204.4, Texas Rules of Civil Procedure, does not by itself satisfy the requirements for a child custody evaluation under this subchapter. A mental examination may be included in the report required under this subchapter and relied on by the child custody evaluator to the extent the evaluator considers appropriate under the circumstances.

SECTION 1.05. Section 107.051, Family Code, is redesignated as Section 107.103, Family Code, and amended to read as follows:

Sec. 107.103 [~~107.051~~]. ORDER FOR CHILD CUSTODY EVALUATION [~~SOCIAL STUDY~~]. (a) The court, after notice and hearing or on agreement of the parties, may order the preparation of a child custody evaluation regarding:

(1) [~~social study into~~] the circumstances and condition of:

(A) [~~(1)~~] a child who is the subject of a suit;

(B) [~~(2)~~] a party to a suit; and

(C) [~~(3)~~] the residence [~~home~~] of any person requesting conservatorship of, possession of, or access to a child who is the subject of the suit; and

(2) any issue or question relating to the suit at the request of the court before or during the evaluation process.

(b) The court may not appoint a child custody evaluator in a suit involving a nonparent seeking conservatorship of a child unless, after notice and hearing or on agreement of the parties, the court makes a specific finding that good cause has been shown for the appointment of a child custody evaluator [~~social study may be made by a private entity, a person appointed~~

~~including the Department of Family and Protective Services if the department is a party to the suit].~~

(c) An order for a child custody evaluation must include:

(1) the name of each person who will conduct the evaluation;

(2) the purpose of the evaluation; and

(3) the specific issues or questions to be addressed in the evaluation [In a suit in which adoption is requested or conservatorship of, possession of, or access to a child is an issue and in which a social study has been ordered and the Department of Family and Protective Services is not a party, the court shall appoint a private agency, another person, or a domestic relations office to conduct the social study].

(d) Except as provided by Section 107.106 [407.0511(b)], each individual who conducts a child custody evaluation [social study] must be qualified under Section 107.104 [407.0511].

SECTION 1.06. Section 107.0511, Family Code, is redesignated as Section 107.104, Family Code, and amended to read as follows:

Sec. 107.104 [407.0511]. CHILD CUSTODY [SOCIAL STUDY] EVALUATOR: MINIMUM

QUALIFICATIONS. (a) In this section:

(1) "Full-time experience" means a period during which an individual works at least 30 hours per week.

(2) "Human services field of study" means a field of study designed to prepare an individual in the disciplined application of counseling, family therapy, psychology, or social work values, principles, and methods.

(b) ~~[The minimum qualifications prescribed by this section do not apply to an individual conducting a social study:~~

~~[(1) in connection with a suit pending before a court located in a county with a population of less than 500,000;~~

~~[(2) in connection with an adoption governed by rules adopted under Section 107.0519(a);~~

~~[(3) as an employee or other authorized representative of a licensed child placing agency; or~~

~~[(4) as an employee or other authorized~~

~~by the court, a domestic relations office, or a state agency, including the Department of Family and Protective Services if the department is a party to the suit].~~

(c) An order for a child custody evaluation must include:

(1) the name of each person who will conduct the evaluation;

(2) the purpose of the evaluation; and

(3) the specific issues or questions to be addressed in the evaluation [In a suit in which adoption is requested or conservatorship of, possession of, or access to a child is an issue and in which a social study has been ordered and the Department of Family and Protective Services is not a party, the court shall appoint a private agency, another person, or a domestic relations office to conduct the social study].

(d) Except as provided by Section 107.106 [407.0511(b)], each individual who conducts a child custody evaluation [social study] must be qualified under Section 107.104 [407.0511].

SECTION 1.06. Section 107.0511, Family Code, is redesignated as Section 107.104, Family Code, and amended to read as follows:

Sec. 107.104 [407.0511]. CHILD CUSTODY [SOCIAL STUDY] EVALUATOR: MINIMUM

QUALIFICATIONS. (a) In this section:

(1) "Full-time experience" means a period during which an individual works at least 30 hours per week.

(2) "Human services field of study" means a field of study designed to prepare an individual in the disciplined application of counseling, family therapy, psychology, or social work values, principles, and methods.

(b) ~~[The minimum qualifications prescribed by this section do not apply to an individual conducting a social study:~~

~~[(1) in connection with a suit pending before a court located in a county with a population of less than 500,000;~~

~~[(2) in connection with an adoption governed by rules adopted under Section 107.0519(a);~~

~~[(3) as an employee or other authorized representative of a licensed child placing agency; or~~

~~[(4) as an employee or other authorized~~

~~representative of the Department of Family and Protective Services.~~

~~[(e) The executive commissioner of the Health and Human Services Commission shall adopt rules prescribing the minimum qualifications that an individual described by Subsection (b)(3) or (4) must possess in order to conduct a social study under this subchapter.~~

~~[(d)] To be qualified to conduct a child custody evaluation [~~social study~~] under this subchapter, an individual must:~~

~~(1) have at least a master's [~~bachelor's~~] degree from an accredited college or university in a human services field of study and a license to practice in this state as a social worker, professional counselor, marriage and family therapist, or psychologist, or have a license to practice medicine in this state and a board certification in psychiatry and:~~

~~(A) after completing the degree required by this subdivision, if applicable, have two years of full-time experience or equivalent part-time experience under professional supervision during which the individual performed functions involving the evaluation of physical, intellectual, social, and psychological functioning and needs and developed an understanding [~~the potential~~] of the social and physical environment, both present and prospective, to meet those needs; and~~

~~(B) after obtaining a license required by this subdivision, have performed [~~participated in the performance of~~] at least 10 court-ordered child custody evaluations [~~social studies~~] under the supervision of an individual qualified under this section;~~

~~(2) meet the requirements of Subdivision (1)(A) and be practicing under the direct supervision of an individual qualified under this section in order to complete at least 10 court-ordered child custody evaluations [~~social studies~~] under supervision; or~~

~~(3) be employed by or under contract with a domestic relations office, provided that the individual conducts child custody evaluations [~~social studies~~] relating only to families ordered by a court to participate in child custody evaluations [~~social studies~~] conducted by the domestic relations office.~~

~~representative of the Department of Family and Protective Services.~~

~~[(e) The executive commissioner of the Health and Human Services Commission shall adopt rules prescribing the minimum qualifications that an individual described by Subsection (b)(3) or (4) must possess in order to conduct a social study under this subchapter.~~

~~[(d)] To be qualified to conduct a child custody evaluation [~~social study under this subchapter~~], an individual must:~~

~~(1) have at least a master's [~~bachelor's~~] degree from an accredited college or university in a human services field of study and a license to practice in this state as a social worker, professional counselor, marriage and family therapist, or psychologist, or have a license to practice medicine in this state and a board certification in psychiatry and:~~

~~(A) after completing any degree required by this subdivision, have two years of full-time experience or equivalent part-time experience under professional supervision during which the individual performed functions involving the evaluation of physical, intellectual, social, and psychological functioning and needs and developed an understanding [~~the potential~~] of the social and physical environment, both present and prospective, to meet those needs; and~~

~~(B) after obtaining a license required by this subdivision, have performed [~~participated in the performance of~~] at least 10 court-ordered child custody evaluations [~~social studies~~] under the supervision of an individual qualified under this section;~~

~~(2) meet the requirements of Subdivision (1)(A) and be practicing under the direct supervision of an individual qualified under this section in order to complete at least 10 court-ordered child custody evaluations [~~social studies~~] under supervision; ~~or~~~~

~~(3) be employed by or under contract with a domestic relations office, provided that the individual conducts child custody evaluations [~~social studies~~] relating only to families ordered by a court to participate in child custody evaluations [~~social studies~~] conducted by the domestic relations office;~~

~~or~~

~~(4) have a doctoral degree and:~~

~~(A) hold a license in a human services field~~

~~(c) [(e) — If an individual meeting the requirements of this section is not available in the county served by the court, the court may authorize an individual determined by the court to be otherwise qualified to conduct the social study.~~

~~[(f)] In addition to the qualifications prescribed by this section, an individual must complete at least eight hours of family violence dynamics training provided by a family violence service provider to be qualified to conduct a child custody evaluation [social study] under this subchapter.~~

~~[(g) The minimum qualifications prescribed by this section do not apply to an individual who, before September 1, 2007:~~

~~[(1) lived in a county that has a population of 500,000 or more and is adjacent to two or more counties each of which has a population of 50,000 or more;~~

~~[(2) received a four-year degree from an accredited institution of higher education;~~

~~[(3) worked as a child protective services investigator for the Department of Family and Protective Services for at least four years;~~

~~[(4) worked as a community supervision and corrections department officer; and~~

~~of study;~~

~~(B) have completed continuing education or professional development;~~

~~(i) directly related to the performance of child custody evaluations; and~~

~~(ii) the number of hours of which satisfy the licensing requirements for the individual's license; and~~

~~(C) after completing the education described by Paragraph (B), have participated in at least 10 court-ordered child custody evaluations in consultation with a person who is:~~

~~(i) qualified to perform child custody evaluations under this chapter; and~~

~~(ii) meets any requirements imposed by the agency that issues the individual's license.~~

~~(c) The agency that issues the license to an individual qualified to conduct child custody evaluations under Subsection (b)(4) may determine by rule the courses, internships, practicums, or other professional preparatory activities that satisfy the requirements under Subsection (b)(4)(B) and the qualifications for a person described by Subsection (b)(4)(C).~~

~~(d) [(e) — If an individual meeting the requirements of this section is not available in the county served by the court, the court may authorize an individual determined by the court to be otherwise qualified to conduct the social study.~~

~~[(f)] In addition to the qualifications prescribed by this section, an individual must complete at least eight hours of family violence dynamics training provided by a family violence service provider to be qualified to conduct a child custody evaluation [social study] under this subchapter.~~

~~[(g) The minimum qualifications prescribed by this section do not apply to an individual who, before September 1, 2007:~~

~~[(1) lived in a county that has a population of 500,000 or more and is adjacent to two or more counties each of which has a population of 50,000 or more;~~

~~[(2) received a four-year degree from an accredited institution of higher education;~~

~~[(3) worked as a child protective services investigator for the Department of Family and Protective Services for at least four years;~~

~~[(4) worked as a community supervision and corrections department officer; and~~

~~[(5) conducted at least 100 social studies in the previous five years.~~

~~[(h) A person described by Subsection (g) who performs a social study must:~~

~~[(1) complete at least eight hours of family violence dynamics training provided by a family violence service provider; and~~

~~[(2) participate annually in at least 15 hours of continuing education for child custody evaluators that meets the Model Standards of Practice for Child Custody Evaluation adopted by the Association of Family and Conciliation Courts as those standards existed May 1, 2009, or a later version of those standards if adopted by rule of the executive commissioner of the Health and Human Services Commission.~~

~~[(i) Subsections (g) and (h) and this subsection expire September 1, 2017.]~~

SECTION 1.07. Subchapter D, Chapter 107, Family Code, is amended by adding Sections 107.105 and 107.106 to read as follows:

Sec. 107.105. CHILD CUSTODY EVALUATION: SPECIALIZED TRAINING REQUIRED.

Sec. 107.106. EXCEPTION TO QUALIFICATIONS REQUIRED TO CONDUCT CHILD CUSTODY EVALUATION. In a county with a population of less than 500,000, if a court finds that an individual who meets the requirements of Section 107.104 is not available in the county to conduct a child custody evaluation in a timely manner, the court, after notice and hearing, may appoint an individual the court determines to be otherwise qualified to conduct the evaluation if the parties to the suit agree to the appointment in writing.

No equivalent provision.

SECTION 1.08. Section 107.0512, Family Code, is redesignated as Section 107.107, Family Code, and amended to read as follows:

Sec. 107.107 [107.0512]. CHILD CUSTODY [SOCIAL STUDY]

~~[(5) conducted at least 100 social studies in the previous five years.~~

~~[(h) A person described by Subsection (g) who performs a social study must:~~

~~[(1) complete at least eight hours of family violence dynamics training provided by a family violence service provider; and~~

~~[(2) participate annually in at least 15 hours of continuing education for child custody evaluators that meets the Model Standards of Practice for Child Custody Evaluation adopted by the Association of Family and Conciliation Courts as those standards existed May 1, 2009, or a later version of those standards if adopted by rule of the executive commissioner of the Health and Human Services Commission.~~

~~[(i) Subsections (g) and (h) and this subsection expire September 1, 2017.]~~

SECTION 1.07. Subchapter D, Chapter 107, Family Code, is amended by adding Sections 107.105 and 107.106 to read as follows:

Sec. 107.105. CHILD CUSTODY EVALUATION: SPECIALIZED TRAINING REQUIRED.

Sec. 107.106. EXCEPTION TO QUALIFICATIONS REQUIRED TO CONDUCT CHILD CUSTODY EVALUATION. (a) In a county with a population of less than 500,000, if a court finds that an individual who meets the requirements of Section 107.104 is not available in the county to conduct a child custody evaluation in a timely manner, the court, after notice and hearing, may appoint an individual the court determines to be otherwise qualified to conduct the evaluation.

(b) An individual appointed under this section shall comply with all provisions of this subchapter, other than Section 107.104.

SECTION 1.08. Section 107.0512, Family Code, is redesignated as Section 107.107, Family Code, and amended to read as follows:

Sec. 107.107 [107.0512]. CHILD CUSTODY [SOCIAL STUDY]

EVALUATOR: CONFLICTS OF INTEREST AND BIAS. (a) Before accepting appointment as a child custody [A social study] evaluator in a suit, a person must disclose to the court, each attorney for a party to the suit, any attorney for a child who is the subject of the suit, and any party to the suit who does not have an attorney:

(1) any [who has a] conflict of interest that the person believes the person has with any party to the [in a disputed] suit or a child who is the subject of the suit;

(2) any [who may be biased on the basis of] previous knowledge that the person has of a party to the suit or a child who is the subject of the suit, other than knowledge obtained in a court-ordered evaluation;

(3) any pecuniary relationship that the person believes the person has with an attorney in the suit;

(4) any relationship of confidence or trust that the person believes the person has with an attorney in the suit; and

(5) any other information relating to the person's relationship with an attorney in the suit that a reasonable, prudent person would believe would affect the ability of the person to act impartially in conducting a child custody evaluation[~~, shall:~~

[~~(1) decline to conduct a social study for the suit; or~~

[~~(2) disclose any issue or concern to the court before accepting the appointment or assignment].~~

(b) The court may not appoint a person as a child custody evaluator in a suit if the person makes any of the disclosures in Subsection (a) unless:

(1) the court finds that:

(A) the person has no conflict of interest with a party to the suit or a child who is the subject of the suit;

(B) the person's previous knowledge of a party to the suit or a child who is the subject of the suit is not relevant;

(C) the person does not have a pecuniary relationship with an attorney in the suit; and

(D) the person does not have a relationship of trust or confidence with an attorney in the suit; or

(2) the parties and any attorney for a child who is the subject of the suit agree in writing to the person's appointment as the child custody evaluator.

(c) After being appointed as a child custody

EVALUATOR: CONFLICTS OF INTEREST AND BIAS. (a) Before accepting appointment as a child custody [A social study] evaluator in a suit, a person must disclose to the court, each attorney for a party to the suit, any attorney for a child who is the subject of the suit, and any party to the suit who does not have an attorney:

(1) any [who has a] conflict of interest that the person believes the person has with any party to the [in a disputed] suit or a child who is the subject of the suit;

(2) any [who may be biased on the basis of] previous knowledge that the person has of a party to the suit or a child who is the subject of the suit, other than knowledge obtained in a court-ordered evaluation;

(3) any pecuniary relationship that the person believes the person has with an attorney in the suit;

(4) any relationship of confidence or trust that the person believes the person has with an attorney in the suit; and

(5) any other information relating to the person's relationship with an attorney in the suit that a reasonable, prudent person would believe would affect the ability of the person to act impartially in conducting a child custody evaluation[~~, shall:~~

[~~(1) decline to conduct a social study for the suit; or~~

[~~(2) disclose any issue or concern to the court before accepting the appointment or assignment].~~

(b) The court may not appoint a person as a child custody evaluator in a suit if the person makes any of the disclosures in Subsection (a) unless:

(1) the court finds that:

(A) the person has no conflict of interest with a party to the suit or a child who is the subject of the suit;

(B) the person's previous knowledge of a party to the suit or a child who is the subject of the suit is not relevant;

(C) the person does not have a pecuniary relationship with an attorney in the suit; and

(D) the person does not have a relationship of trust or confidence with an attorney in the suit; or

(2) the parties and any attorney for a child who is the subject of the suit agree in writing to the person's appointment as the child custody evaluator.

(c) After being appointed as a child custody

evaluator in a suit, a person shall immediately disclose to the court, each attorney for a party to the suit, any attorney for a child who is the subject of the suit, and any party to the suit who does not have an attorney any discovery of:

(1) a conflict of interest that the person believes the person has with a party to the suit or a child who is the subject of the suit; and

(2) previous knowledge that the person has of a party to the suit or a child who is the subject of the suit, other than knowledge obtained in a court-ordered evaluation.

(d) A person shall resign from the person's appointment as a child custody evaluator in a suit if the person makes any of the disclosures in Subsection (c) unless:

(1) the court finds that:

(A) the person has no conflict of interest with a party to the suit or a child who is the subject of the suit; and

(B) the person's previous knowledge of a party to the suit or a child who is the subject of the suit is not relevant; or

(2) the parties and any attorney for a child who is the subject of the suit agree in writing to the person's continued appointment as the child custody evaluator.

(e) A child custody [social study] evaluator who has previously conducted a child custody evaluation [social study] for a suit may conduct all subsequent evaluations in the suit unless the court finds that the evaluator is biased.

(f) A person may not be appointed as a child custody evaluator in a suit if the person has worked in a professional capacity with a party to the suit, a child who is the subject of the suit, or a member of the party's or child's family who is involved in the suit. This subsection does not apply to a person who has worked in a professional capacity with a party, a child, or a member of the party's or child's family only as a teacher of parenting skills in a group setting, with no individualized interaction with any party, the child, any party's family, or the child's family, or as a child custody evaluator who performed a previous evaluation.

evaluator in a suit, a person shall immediately disclose to the court, each attorney for a party to the suit, any attorney for a child who is the subject of the suit, and any party to the suit who does not have an attorney any discovery of:

(1) a conflict of interest that the person believes the person has with a party to the suit or a child who is the subject of the suit; and

(2) previous knowledge that the person has of a party to the suit or a child who is the subject of the suit, other than knowledge obtained in a court-ordered evaluation.

(d) A person shall resign from the person's appointment as a child custody evaluator in a suit if the person makes any of the disclosures in Subsection (c) unless:

(1) the court finds that:

(A) the person has no conflict of interest with a party to the suit or a child who is the subject of the suit; and

(B) the person's previous knowledge of a party to the suit or a child who is the subject of the suit is not relevant; or

(2) the parties and any attorney for a child who is the subject of the suit agree in writing to the person's continued appointment as the child custody evaluator.

(e) A child custody [social study] evaluator who has previously conducted a child custody evaluation [social study] for a suit may conduct all subsequent evaluations in the suit unless the court finds that the evaluator is biased.

(f) An individual may not be appointed as a child custody evaluator in a suit if the individual has worked in a professional capacity with a party to the suit, a child who is the subject of the suit, or a member of the party's or child's family who is involved in the suit. This subsection does not apply to an individual who has worked in a professional capacity with a party, a child, or a member of the party's or child's family only as a teacher of parenting skills in a group setting, with no individualized interaction with any party, the child, any party's family, or the child's family, or as a child custody evaluator who performed a previous evaluation. A child custody evaluator who has worked as a teacher of parenting skills in a group setting that included a party, a child, or another person who will be the subject of an evaluation or

For purposes of this subsection, "family" has the meaning assigned by Section 71.003.

~~[(e) This section does not prohibit a court from appointing an employee of the Department of Family and Protective Services to conduct a social study in a suit in which adoption is requested or possession of or access to a child is an issue and in which the department is a party or has an interest.]~~

SECTION 1.09. Section 107.0513, Family Code, is redesignated as Section 107.108, Family Code, and amended to read as follows:

Sec. 107.108 [407.0513]. GENERAL PROVISIONS APPLICABLE TO CONDUCT OF CHILD CUSTODY EVALUATION [SOCIAL STUDY] AND PREPARATION OF REPORT. (a) Unless otherwise directed by a court or prescribed by a provision of this title, a child custody [social study] evaluator's actions in conducting a child custody evaluation must [social study shall] be in conformance with the professional standard of care applicable to the evaluator's licensure and any administrative rules, ethical standards, or guidelines adopted by the licensing authority [state agency] that licenses the evaluator.

(b) A [In addition to the requirements prescribed by this subchapter, a] court may impose requirements or adopt local rules applicable to a child custody evaluation [social study] or a child custody [social study] evaluator that do not conflict with this subchapter.

(c) A child custody [social study] evaluator shall follow evidence-based practice methods and make use of current best evidence in making assessments and recommendations.

(d) A child custody [social study] evaluator shall disclose to each attorney of record any communication regarding a substantive issue between the evaluator and an attorney of record representing a party in a contested

has worked as a child custody evaluator for a previous evaluation must notify the court and the attorney of each represented party or, if a party is not represented, the evaluator must notify the party. For purposes of this subsection, "family" has the meaning assigned by Section 71.003.

~~[(e) This section does not prohibit a court from appointing an employee of the Department of Family and Protective Services to conduct a social study in a suit in which adoption is requested or possession of or access to a child is an issue and in which the department is a party or has an interest.]~~

SECTION 1.09. Section 107.0513, Family Code, is redesignated as Section 107.108, Family Code, and amended to read as follows:

Sec. 107.108 [407.0513]. GENERAL PROVISIONS APPLICABLE TO CONDUCT OF CHILD CUSTODY EVALUATION [SOCIAL STUDY] AND PREPARATION OF REPORT. (a) Unless otherwise directed by a court or prescribed by a provision of this title, a child custody [social study] evaluator's actions in conducting a child custody evaluation must [social study shall] be in conformance with the professional standard of care applicable to the evaluator's licensure and any administrative rules, ethical standards, or guidelines adopted by the licensing authority [state agency] that licenses the evaluator.

(b) A [In addition to the requirements prescribed by this subchapter, a] court may impose requirements or adopt local rules applicable to a child custody evaluation [social study] or a child custody [social study] evaluator that do not conflict with this subchapter.

(c) A child custody [social study] evaluator shall follow evidence-based practice methods and make use of current best evidence in making assessments and recommendations.

(d) A child custody [social study] evaluator shall disclose to each attorney of record any communication regarding a substantive issue between the evaluator and an attorney of record representing a party in a contested



~~[disputed]~~ suit. This subsection does not apply to a communication between a child custody ~~[social study]~~ evaluator and an attorney ad litem or amicus attorney.

(e) To the extent possible, a child custody ~~[social study]~~ evaluator shall verify each statement of fact pertinent to a child custody evaluation ~~[social study]~~ and shall note the sources of verification and information in the child custody evaluation report prepared under Section 107.113.

(f) A child custody ~~[social study]~~ evaluator shall state the basis for the evaluator's conclusions or recommendations, and the extent to which information obtained limits the reliability and validity of the opinion and the conclusions and recommendations of the evaluator, in the child custody evaluation report prepared under Section 107.113. A child custody ~~[social study]~~ evaluator who has evaluated only one side of a contested suit ~~[disputed case]~~ shall refrain from making a recommendation regarding conservatorship of a child or possession of or access to a child, but may state whether any information obtained regarding a child's placement with a party indicates concerns for the safety of the child or the party's apparent parenting skills or capability

~~[the party evaluated appears to be suitable for conservatorship].~~

(g) A child custody evaluation ~~[Each social study subject to this subchapter]~~ must be conducted in compliance with this subchapter, regardless of whether the child custody evaluation ~~[study]~~ is conducted:

(1) by a single child custody ~~[social study]~~ evaluator or multiple evaluators working separately or together; or

(2) within a county served by the court with continuing jurisdiction or at a geographically distant location.

(h) A child custody evaluation ~~[social study]~~ report must include for each child custody evaluator who conducted any portion of the child custody evaluation:

(1) the name and[;] license number of the child custody evaluator;[;] and

(2) a statement that the child custody evaluator:

(A) meets the requirements of ~~[basis for qualification under]~~ Section 107.104; or

~~[disputed]~~ suit. This subsection does not apply to a communication between a child custody ~~[social study]~~ evaluator and an attorney ad litem or amicus attorney.

(e) To the extent possible, a child custody ~~[social study]~~ evaluator shall verify each statement of fact pertinent to a child custody evaluation ~~[social study]~~ and shall note the sources of verification and information in the child custody evaluation report prepared under Section 107.113.

(f) A child custody ~~[social study]~~ evaluator shall state the basis for the evaluator's conclusions or recommendations, and the extent to which information obtained limits the reliability and validity of the opinion and the conclusions and recommendations of the evaluator, in the child custody evaluation report prepared under Section 107.113. A child custody ~~[social study]~~ evaluator who has evaluated only one side of a contested suit ~~[disputed case]~~ shall refrain from making a recommendation regarding conservatorship of a child or possession of or access to a child, but may state whether any information obtained regarding a child's placement with a party indicates concerns for:

(1) the safety of the child;

(2) the party's parenting skills or capability;

(3) the party's relationship with the child; or

(4) the mental health of the party ~~[the party evaluated appears to be suitable for conservatorship].~~

(g) A child custody evaluation ~~[Each social study subject to this subchapter]~~ must be conducted in compliance with this subchapter, regardless of whether the child custody evaluation ~~[study]~~ is conducted:

(1) by a single child custody ~~[social study]~~ evaluator or multiple evaluators working separately or together; or

(2) within a county served by the court with continuing jurisdiction or at a geographically distant location.

(h) A child custody evaluation ~~[social study]~~ report must include for each child custody evaluator who conducted any portion of the child custody evaluation:

(1) the name and[;] license number of the child custody evaluator;[;] and

(2) a statement that the child custody evaluator:

(A) has read and meets the requirements of ~~[basis for qualification under]~~ Section

(B) was appointed under Section 107.106 [107.0511 of each social study evaluator who conducted any portion of the social study].

SECTION 1.10. Section 107.0514, Family Code, is redesignated as Section 107.109, Family Code, and amended to read as follows:

Sec. 107.109 [~~107.0514~~]. ELEMENTS OF CHILD CUSTODY EVALUATION [~~SOCIAL STUDY~~]. (a) A child custody evaluator may not offer an opinion regarding conservatorship of a child who is the subject of a suit or possession of or access to the child unless each basic element of a child custody evaluation as described by this section has been completed.

(b) A child custody evaluator shall:

(1) identify in the report required by Section 107.113 any basic element or any additional element of a child custody evaluation described by this section that was not completed;

(2) explain the reasons the element was not completed; and

(3) include an explanation of the likely effect of the missing element on the confidence the child custody evaluator has in the evaluator's expert opinion.

(c) The basic elements of a child custody evaluation [~~social study~~] under this subchapter consist of:

(1) a personal interview of each party to the suit;

(2) an interview, conducted in a developmentally appropriate manner, of each child who is the subject of [at issue in] the suit and [who] is at least four years of age, in the presence of each party to the suit;

(3) observation of each child who is the subject of [at issue in] the suit, regardless of the age of the child, in the presence of each party to the suit, unless contact between a party and a child is prohibited by court order or the person conducting the evaluation has good cause for not conducting the observation and states the good cause in writing provided to the parties to the suit before the completion of the evaluation;

107.104; or

(B) was appointed under Section 107.106 [107.0511 of each social study evaluator who conducted any portion of the social study].

SECTION 1.10. Section 107.0514, Family Code, is redesignated as Section 107.109, Family Code, and amended to read as follows:

Sec. 107.109 [~~107.0514~~]. ELEMENTS OF CHILD CUSTODY EVALUATION [~~SOCIAL STUDY~~]. (a) A child custody evaluator may not offer an opinion regarding conservatorship of a child who is the subject of a suit or possession of or access to the child unless each basic element of a child custody evaluation as described by this section has been completed.

(b) A child custody evaluator shall:

(1) identify in the report required by Section 107.113 any basic element or any additional element of a child custody evaluation described by this section that was not completed;

(2) explain the reasons the element was not completed; and

(3) include an explanation of the likely effect of the missing element on the confidence the child custody evaluator has in the evaluator's expert opinion.

(c) The basic elements of a child custody evaluation [~~social study~~] under this subchapter consist of:

(1) a personal interview of each party to the suit;

(2) interviews [an interview], conducted in a developmentally appropriate manner, of each child who is the subject of [at issue in] the suit, regardless of the age of the child, during a period of possession of each party to the suit but outside the presence of the party [who is at least four years of age];

(3) observation of each child who is the subject of [at issue in] the suit, regardless of the age of the child, in the presence of each party to the suit, including, as appropriate, during supervised visitation, unless contact between a party and a child is prohibited by court order or the person conducting the evaluation has good cause for not conducting the observation and states the good cause in writing provided to the parties to the suit before the completion of the

(4) an interview and observation of any child who is not a subject of the suit who lives on a full-time basis in the residence that is the subject of the evaluation;

(5) the obtaining of information by reviewing ~~from~~ relevant collateral sources, including:

(A) relevant school records;

(B) relevant physical and mental health records of each party to the suit and each child who is the subject of the suit;

(C) relevant records of the department, including records maintained as part of the central registry established by Section 261.002 and criminal history record information relating to each child who is the subject of the suit, each party to the suit, and each person who lives with a party to the suit; and

(D) any other collateral source that may have relevant information;

(6) ~~[(5)]~~ evaluation of the home environment of each party seeking conservatorship of a child who is the subject of ~~[at issue in]~~ the suit or possession of or access to the child, unless the condition of the home environment is identified as not being in dispute in the court order requiring the child custody evaluation ~~[social study];~~

(7) ~~[(6)]~~ for each individual residing in a residence subject to the child custody evaluation ~~[social study]~~, consideration of any criminal history record information and any contact with the department ~~[Department of Family and Protective Services]~~ or a law enforcement agency regarding abuse or neglect; and

(8) ~~[(7)]~~ assessment of the relationship between each child who is the subject of ~~[at issue in]~~ the suit and each party seeking possession of or access to the child.

(d) ~~[(b)]~~ The additional elements of a child custody evaluation ~~[social study]~~ under this subchapter consist of:

(1) balanced interviews and **observation** of each child who is the subject of ~~[at issue in]~~ the suit so that a child who is interviewed or observed while in the care of one party to the suit is also interviewed or observed while in the care of each other party to the suit;

(2) an interview of each individual, including a child, residing on a full-time or

evaluation;

(4) an interview, **if the child is at least four years of age**, and observation of any child who is not a subject of the suit who lives on a full-time basis in a residence that is the subject of the evaluation;

(5) the obtaining of information from relevant collateral sources, including the review of:

(A) relevant school records;

(B) relevant physical and mental health records of each party to the suit and each child who is the subject of the suit;

(C) relevant records of the department obtained under Section 107.111;

(D) criminal history record information relating to each child who is the subject of the suit, each party to the suit, and each person who lives with a party to the suit; and

(E) any other collateral source that may have relevant information;

(6) ~~[(5)]~~ evaluation of the home environment of each party seeking conservatorship of a child who is the subject of ~~[at issue in]~~ the suit or possession of or access to the child, unless the condition of the home environment is identified as not being in dispute in the court order requiring the child custody evaluation ~~[social study];~~

(7) ~~[(6)]~~ for each individual residing in a residence subject to the child custody evaluation ~~[social study]~~, consideration of any criminal history record information and any contact with the department ~~[Department of Family and Protective Services]~~ or a law enforcement agency regarding abuse or neglect; and

(8) ~~[(7)]~~ assessment of the relationship between each child who is the subject of ~~[at issue in]~~ the suit and each party seeking possession of or access to the child.

(d) ~~[(b)]~~ The additional elements of a child custody evaluation ~~[social study]~~ under this subchapter consist of:

(1) balanced interviews and **observations** ~~[observation]~~ of each child who is the subject of ~~[at issue in]~~ the suit so that a child who is interviewed or observed while in the care of one party to the suit is also interviewed or observed while in the care of each other party to the suit;

(2) an interview of each individual, including a child **who is at least four years**

part-time basis in a residence subject to the child custody evaluation [social study]; [and]

(3) evaluation of the home environment of each party seeking conservatorship of a child who is the subject of [at issue in] the suit or possession of or access to the child, regardless of whether the home environment is in dispute;

(4) observation of each party to the suit with each child who is the subject of the suit, including, as appropriate, during supervised visitation, unless contact between a party and a child is prohibited by court order or the person conducting the evaluation has good cause for not conducting the observation and states the good cause in writing provided to the parties to the suit before the completion of the evaluation;

(5) observation of a child who is the subject of the suit with each adult and child who reside on a full-time or part-time basis in the residence that is the subject of the evaluation; and

(6) the performance of other tasks requested of the evaluator by the court, including:

(A) a joint interview of the parties to the suit; or

(B) the review of any other information that the court determines is relevant.

~~[(c) A social study evaluator may not offer an opinion regarding conservatorship of a child at issue in a suit or possession of or access to the child unless each basic element of a social study under Subsection (a) has been completed. A social study evaluator shall identify in the report any additional element of a social study under Subsection (b) that was not completed and shall explain the reasons that the element was not completed.]~~

SECTION 1.11. Subchapter D, Chapter 107, Family Code, is amended, by adding Section 107.110 to read as follows:

Sec. 107.110. PSYCHOMETRIC

of age, residing on a full-time or part-time basis in a residence subject to the child custody evaluation [social study]; [and]

(3) evaluation of the home environment of each party seeking conservatorship of a child who is the subject of [at issue in] the suit or possession of or access to the child, regardless of whether the home environment is in dispute;

(4) observation of a child who is the subject of the suit with each adult who lives in a residence that is the subject of the evaluation;

(5) an interview, if the child is at least four years of age, and observation of a child who is not the subject of the suit but who lives on a full-time or part-time basis in a residence that is the subject of the evaluation;

(6) psychometric testing, if necessary, consistent with Section 107.110; and

(7) the performance of other tasks requested of the evaluator by the court, including:

(A) a joint interview of the parties to the suit; or

(B) the review of any other information that the court determines is relevant.

~~[(c) A social study evaluator may not offer an opinion regarding conservatorship of a child at issue in a suit or possession of or access to the child unless each basic element of a social study under Subsection (a) has been completed. A social study evaluator shall identify in the report any additional element of a social study under Subsection (b) that was not completed and shall explain the reasons that the element was not completed.]~~

SECTION 1.11. Subchapter D, Chapter 107, Family Code, is amended by adding Section 107.110 to read as follows:

Sec. 107.110. PSYCHOMETRIC

TESTING. (a) A child custody evaluator may conduct psychometric testing as part of a child custody evaluation if:

(1) ordered by the court or determined necessary by the child custody evaluator; and

(2) the child custody evaluator is:

(A) appropriately licensed and trained to administer and interpret the specific psychometric tests selected; and

(B) trained in the specialized forensic application of psychometric testing.

(b) Selection of a specific psychometric test is at the professional discretion of the child custody evaluator based on the specific issues raised in the suit.

No equivalent provision.

No equivalent provision.

No equivalent provision.

TESTING. (a) A child custody evaluator may conduct psychometric testing as part of a child custody evaluation if:

(1) ordered by the court or determined necessary by the child custody evaluator; and

(2) the child custody evaluator is:

(A) appropriately licensed and trained to administer and interpret the specific psychometric tests selected; and

(B) trained in the specialized forensic application of psychometric testing.

(b) Selection of a specific psychometric test is at the professional discretion of the child custody evaluator based on the specific issues raised in the suit.

(c) A child custody evaluator may only use psychometric tests if the evaluator is familiar with the reliability, validation, and related standardization or outcome studies of, and proper applications and use of, the tests within a forensic setting.

(d) If a child custody evaluator considers psychometric testing necessary but lacks specialized training or expertise to use the specific tests under this section, the evaluator may designate a qualified licensed psychologist to conduct the testing.

SECTION 1.12. Subchapter D, Chapter 107, Family Code, is amended by adding Section 107.1101 to read as follows:

Sec. 107.1101. EFFECT OF POTENTIALLY UNDIAGNOSED SERIOUS MENTAL ILLNESS. (a) In this section, "serious mental illness" has the meaning assigned by Section 1355.001, Insurance Code.

(b) If a child custody evaluator identifies the presence of a potentially undiagnosed serious mental illness experienced by an individual who is a subject of the child custody evaluation and the evaluator is not qualified by the evaluator's licensure, experience, and training to assess a serious mental illness, the evaluator shall make one or more appropriate referrals for a mental examination of the individual.

(c) The child custody evaluation report must include any information that the evaluator considers appropriate under the circumstances regarding the possible effects of an individual's potentially undiagnosed

serious mental illness on the evaluation and the evaluator's recommendations.

SECTION 1.12. Section 107.05145, Family Code, is redesignated as Section 107.111, Family Code, and amended to read as follows:

Sec. 107.111 [~~107.05145~~]. CHILD CUSTODY [~~SOCIAL STUDY~~] EVALUATOR ACCESS TO INVESTIGATIVE RECORDS OF DEPARTMENT [~~OF FAMILY AND PROTECTIVE SERVICES~~]; OFFENSE.

(a) A child custody [~~social study~~] evaluator appointed by a court is entitled to obtain from the department [~~Department of Family and Protective Services~~] a complete, unredacted copy of any investigative record regarding abuse or neglect that relates to any person residing in the residence subject to the child custody evaluation [~~social study~~].

(b) Except as provided by this section, records obtained by a child custody [~~social study~~] evaluator from the department [~~Department of Family and Protective Services~~] under this section are confidential and not subject to disclosure under Chapter 552, Government Code, or to disclosure in response to a subpoena or a discovery request.

(c) A child custody [~~social study~~] evaluator may disclose information obtained under Subsection (a) in the child custody evaluation [~~social study~~] report prepared under Section 107.113 only to the extent the evaluator determines that the information is relevant to the child custody evaluation [~~social study~~] or a recommendation made under this subchapter.

(d) A person commits an offense if the person knowingly discloses confidential information obtained from the department [~~Department of Family and Protective Services~~] in violation of this section. An offense under this subsection is a Class A misdemeanor.

SECTION 1.13. Subchapter D, Chapter 107, Family Code, is amended by adding Section 107.112 to read as follows:

Sec. 107.112. COMMUNICATIONS AND RECORDKEEPING OF CHILD CUSTODY EVALUATOR. (a)

SECTION 1.13. Section 107.05145, Family Code, is redesignated as Section 107.111, Family Code, and amended to read as follows:

Sec. 107.111 [~~107.05145~~]. CHILD CUSTODY [~~SOCIAL STUDY~~] EVALUATOR ACCESS TO INVESTIGATIVE RECORDS OF DEPARTMENT [~~OF FAMILY AND PROTECTIVE SERVICES~~]; OFFENSE.

(a) A child custody [~~social study~~] evaluator appointed by a court is entitled to obtain from the department [~~Department of Family and Protective Services~~] a complete, unredacted copy of any investigative record regarding abuse or neglect that relates to any person residing in the residence subject to the child custody evaluation [~~social study~~].

(b) Except as provided by this section, records obtained by a child custody [~~social study~~] evaluator from the department [~~Department of Family and Protective Services~~] under this section are confidential and not subject to disclosure under Chapter 552, Government Code, or to disclosure in response to a subpoena or a discovery request.

(c) A child custody [~~social study~~] evaluator may disclose information obtained under Subsection (a) in the child custody evaluation [~~social study~~] report prepared under Section 107.113 only to the extent the evaluator determines that the information is relevant to the child custody evaluation [~~social study~~] or a recommendation made under this subchapter.

(d) A person commits an offense if the person recklessly discloses confidential information obtained from the department [~~Department of Family and Protective Services~~] in violation of this section. An offense under this subsection is a Class A misdemeanor.

SECTION 1.14. Subchapter D, Chapter 107, Family Code, is amended by adding Section 107.112 to read as follows:

Sec. 107.112. COMMUNICATIONS AND RECORDKEEPING OF CHILD CUSTODY EVALUATOR. (a)

Notwithstanding any rule, standard of care, or privilege applicable to the professional license held by a child custody evaluator, a communication made by a participant in a child custody evaluation is subject to disclosure and may be offered in any judicial or administrative proceeding if otherwise admissible under the rules of evidence.

(b) A child custody evaluator shall:

(1) keep a detailed record of interviews that the evaluator conducts, observations that the evaluator makes, and substantive interactions that the evaluator has as part of a child custody evaluation; and

(2) maintain the evaluator's records consistent with applicable laws, including rules.

(c) Except for records obtained from the department in accordance with Section 107.111, a private child custody evaluator shall, after completion of an evaluation and preparation of a child custody evaluation report under Section 107.113, make available in a reasonable time the evaluator's records relating to the evaluation on the written request of an attorney for a party, a party who does not have an attorney, and any person appointed under this chapter in the suit in which the evaluator conducted the evaluation, unless a court has issued an order restricting disclosure of the records.

(d) Except for records obtained from the department in accordance with Section 107.111, records relating to a child custody evaluation conducted by an employee of or contractor with a domestic relations office shall, after completion of the evaluation and preparation of a child custody evaluation report under Section 107.113, be made available on written request according to the local rules and policies of the office.

(e) A person maintaining records subject to disclosure under this section may charge a reasonable fee for producing the records before copying the records.

(f) A private child custody evaluator shall retain all records relating to a child custody evaluation conducted by the evaluator until the ending date of the retention period adopted by the licensing authority that issues the professional license held by the evaluator.

Notwithstanding any rule, standard of care, or privilege applicable to the professional license held by a child custody evaluator, a communication made by a participant in a child custody evaluation is subject to disclosure and may be offered in any judicial or administrative proceeding if otherwise admissible under the rules of evidence.

(b) A child custody evaluator shall:

(1) keep a detailed record of interviews that the evaluator conducts, observations that the evaluator makes, and substantive interactions that the evaluator has as part of a child custody evaluation; and

(2) maintain the evaluator's records consistent with applicable laws, including rules applicable to the evaluator's license.

(c) Except for records obtained from the department in accordance with Section 107.111, a private child custody evaluator shall, after completion of an evaluation and the preparation and filing of a child custody evaluation report under Section 107.113, make available in a reasonable time the evaluator's records relating to the evaluation on the written request of an attorney for a party, a party who does not have an attorney, and any person appointed under this chapter in the suit in which the evaluator conducted the evaluation, unless a court has issued an order restricting disclosure of the records.

(d) Except for records obtained from the department in accordance with Section 107.111, records relating to a child custody evaluation conducted by an employee of or contractor with a domestic relations office shall, after completion of the evaluation and the preparation and filing of a child custody evaluation report under Section 107.113, be made available on written request according to the local rules and policies of the office.

(e) A person maintaining records subject to disclosure under this section may charge a reasonable fee for producing the records before copying the records.

(f) A private child custody evaluator shall retain all records relating to a child custody evaluation conducted by the evaluator until the ending date of the retention period adopted by the licensing authority that issues the professional license held by the evaluator based on the date the evaluator filed the child custody evaluation report

(g) A domestic relations office shall retain records relating to a child custody evaluation conducted by a child custody evaluator acting as an employee of or contractor with the office for the retention period established by the office.

(h) A person who participates in a child custody evaluation is not a patient as that term is defined by Section 611.001(1), Health and Safety Code.

SECTION 1.14. Section 107.054, Family Code, is redesignated as Section 107.113, Family Code, and amended.

SECTION 1.15. Section 107.055, Family Code, is redesignated as Section 107.114, Family Code, and amended.

SECTION 1.16. Section 107.056, Family Code, is redesignated as Section 107.115, Family Code, and amended.

SECTION 1.17. Chapter 107, Family Code, is amended by adding Subchapters E and F to read as follows:

SUBCHAPTER E. ADOPTION EVALUATION

Sec. 107.151. DEFINITIONS. In this subchapter:

(1) "Adoption evaluation" means a pre-placement or post-placement evaluative process through which information and recommendations regarding adoption of a child may be made to the court, the parties, and the parties' attorneys.

(2) "Adoption evaluator" means a person who conducts an adoption evaluation under this subchapter.

(3) "Department" means the Department of Family and Protective Services.

(4) "Supervision" means the regular review of and consultation with a person. The term does not require the constant physical presence of the person providing supervision and may include telephonic or electronic communication.

prepared under this section with the court.

(g) A domestic relations office shall retain records relating to a child custody evaluation conducted by a child custody evaluator acting as an employee of or contractor with the office for the retention period established by the office.

(h) A person who participates in a child custody evaluation is not a patient as that term is defined by Section 611.001(1), Health and Safety Code.

SECTION 1.15. Same as introduced version.

SECTION 1.16. Same as introduced version.

SECTION 1.17. Same as introduced version.

SECTION 1.18. Chapter 107, Family Code, is amended by adding Subchapters E and F to read as follows:

SUBCHAPTER E. ADOPTION EVALUATION

Sec. 107.151. DEFINITIONS. In this subchapter:

(1) "Adoption evaluation" means a pre-placement or post-placement evaluative process through which information and recommendations regarding adoption of a child may be made to the court, the parties, and the parties' attorneys.

(2) "Adoption evaluator" means a person who conducts an adoption evaluation under this subchapter.

(3) "Department" means the Department of Family and Protective Services.

(4) "Supervision" means directing, regularly reviewing, and meeting with a person with respect to the completion of work for which the supervisor is responsible for the outcome. The term does not require the constant physical presence of the person providing supervision and may include telephonic or other electronic



Sec. 107.152. APPLICABILITY.

Sec. 107.153. ORDER FOR ADOPTION EVALUATION.

Sec. 107.154. ADOPTION EVALUATOR: MINIMUM QUALIFICATIONS.

Sec. 107.155. EXCEPTION TO QUALIFICATIONS REQUIRED TO CONDUCT ADOPTION EVALUATION. In a county with a population of less than 500,000, if a court finds that an individual who meets the requirements of Section 107.154 is not available in the county to conduct an adoption evaluation in a timely manner, the court, after notice and hearing, may appoint a person the court determines to be otherwise qualified to conduct the evaluation if the parties to the suit agree to the appointment in writing.

No equivalent provision.

Sec. 107.156. ADOPTION EVALUATOR: CONFLICTS OF INTEREST AND BIAS.

(a) Before accepting appointment as an adoption evaluator in a suit, a person must disclose to the court, each attorney for a party to the suit, any attorney for a child who is the subject of the suit, and any party to the suit who does not have an attorney:

- (1) any conflict of interest that the person believes the person has with a party to the suit or a child who is the subject of the suit;
- (2) any previous knowledge that the person has of a party to the suit or a child who is the subject of the suit;
- (3) any pecuniary relationship that the person believes the person has with an attorney in the suit;
- (4) any relationship of confidence or trust that the person believes the person has with an attorney in the suit; and
- (5) any other information relating to the person's relationship with an attorney in the suit that a reasonable, prudent person would believe would affect the ability of the person to act impartially in conducting an adoption evaluation.

(b) The court may not appoint a person as an adoption evaluator in a suit if the person

communication.

Sec. 107.152. APPLICABILITY.

Sec. 107.153. ORDER FOR ADOPTION EVALUATION.

Sec. 107.154. ADOPTION EVALUATOR: MINIMUM QUALIFICATIONS.

Sec. 107.155. EXCEPTION TO QUALIFICATIONS REQUIRED TO CONDUCT ADOPTION EVALUATION. (a) In a county with a population of less than 500,000, if a court finds that an individual who meets the requirements of Section 107.154 is not available in the county to conduct an adoption evaluation in a timely manner, the court, after notice and hearing, may appoint a person the court determines to be otherwise qualified to conduct the evaluation.

(b) An individual appointed under this section shall comply with all provisions of this subchapter, other than Section 107.154.

Sec. 107.156. ADOPTION EVALUATOR: CONFLICTS OF INTEREST AND BIAS.

(a) Before accepting appointment as an adoption evaluator in a suit, a person must disclose to the court, each attorney for a party to the suit, any attorney for a child who is the subject of the suit, and any party to the suit who does not have an attorney:

- (1) any conflict of interest that the person believes the person has with a party to the suit or a child who is the subject of the suit;
- (2) any previous knowledge that the person has of a party to the suit or a child who is the subject of the suit;
- (3) any pecuniary relationship that the person believes the person has with an attorney in the suit;
- (4) any relationship of confidence or trust that the person believes the person has with an attorney in the suit; and
- (5) any other information relating to the person's relationship with an attorney in the suit that a reasonable, prudent person would believe would affect the ability of the person to act impartially in conducting an adoption evaluation.

(b) The court may not appoint a person as an adoption evaluator in a suit if the person

makes any of the disclosures in Subsection (a) unless:

(1) the court finds that:

(A) the person has no conflict of interest with a party to the suit or a child who is the subject of the suit;

(B) the person's previous knowledge of a party to the suit or a child who is the subject of the suit is not relevant;

(C) the person does not have a pecuniary relationship with an attorney in the suit; and

(D) the person does not have a relationship of trust or confidence with an attorney in the suit; or

(2) the parties and any attorney for a child who is the subject of the suit agree in writing to the person's appointment as the adoption evaluator.

(c) After being appointed as an adoption evaluator in a suit, a person shall immediately disclose to the court, each attorney for a party to the suit, any attorney for a child who is the subject of the suit, and any party to the suit who does not have an attorney any discovery of:

(1) a conflict of interest that the person believes the person has with a party to the suit or a child who is the subject of the suit; and

(2) previous knowledge that the person has of a party to the suit or a child who is the subject of the suit, other than knowledge obtained in a court-ordered evaluation.

(d) A person shall resign from the person's appointment as an adoption evaluator in a suit if the person makes any of the disclosures in Subsection (c) unless:

(1) the court finds that:

(A) the person has no conflict of interest with a party to the suit or a child who is the subject of the suit; and

(B) the person's previous knowledge of a party to the suit or a child who is the subject of the suit is not relevant; or

(2) the parties and any attorney for a child who is the subject of the suit agree in writing to the person's continued appointment as the adoption evaluator.

(e) A person may not be appointed as an adoption evaluator in a suit if the person has worked in a professional capacity with a party to the suit, a child who is the subject of the suit, or a member of the party's or child's family who is involved in the suit. This subsection does not apply to a person

makes any of the disclosures in Subsection (a) unless:

(1) the court finds that:

(A) the person has no conflict of interest with a party to the suit or a child who is the subject of the suit;

(B) the person's previous knowledge of a party to the suit or a child who is the subject of the suit is not relevant;

(C) the person does not have a pecuniary relationship with an attorney in the suit; and

(D) the person does not have a relationship of trust or confidence with an attorney in the suit; or

(2) the parties and any attorney for a child who is the subject of the suit agree in writing to the person's appointment as the adoption evaluator.

(c) After being appointed as an adoption evaluator in a suit, a person shall immediately disclose to the court, each attorney for a party to the suit, any attorney for a child who is the subject of the suit, and any party to the suit who does not have an attorney any discovery of:

(1) a conflict of interest that the person believes the person has with a party to the suit or a child who is the subject of the suit; and

(2) previous knowledge that the person has of a party to the suit or a child who is the subject of the suit, other than knowledge obtained in a court-ordered evaluation.

(d) A person shall resign from the person's appointment as an adoption evaluator in a suit if the person makes any of the disclosures in Subsection (c) unless:

(1) the court finds that:

(A) the person has no conflict of interest with a party to the suit or a child who is the subject of the suit; and

(B) the person's previous knowledge of a party to the suit or a child who is the subject of the suit is not relevant; or

(2) the parties and any attorney for a child who is the subject of the suit agree in writing to the person's continued appointment as the adoption evaluator.

(e) An individual may not be appointed as an adoption evaluator in a suit if the individual has worked in a professional capacity with a party to the suit, a child who is the subject of the suit, or a member of the party's or child's family who is involved in the suit. This subsection does not apply to

who has worked in a professional capacity with a party, a child, or a member of the party's or child's family only as a teacher of parenting skills in a group setting, with no individualized interaction with any party, the child, any party's family, or the child's family, or as a child custody evaluator or adoption evaluator who performed a previous evaluation. For purposes of this subsection, "family" has the meaning assigned by Section 71.003.

Sec. 107.157. REPORTING CERTAIN PLACEMENTS FOR ADOPTION.

Sec. 107.158. GENERAL PROVISIONS APPLICABLE TO CONDUCT OF ADOPTION EVALUATOR AND PREPARATION OF REPORTS. (a)

Unless otherwise directed by a court or prescribed by this subchapter, an adoption evaluator's actions in conducting an adoption evaluation must be in conformance with the professional standard of care applicable to the evaluator's licensure and any administrative rules, ethical standards, or guidelines adopted by the licensing authority that licenses the evaluator.

(b) A court may impose requirements or adopt local rules applicable to an adoption evaluation or an adoption evaluator that do not conflict with this subchapter.

(c) An adoption evaluator shall follow evidence-based practice methods and make use of current best evidence in making assessments and recommendations.

(d) An adoption evaluator shall disclose to each attorney of record any communication regarding a substantive issue between the evaluator and an attorney of record representing a party in a contested suit. This subsection does not apply to a communication between an adoption evaluator and an amicus attorney.

(e) To the extent possible, an adoption evaluator shall verify each statement of fact pertinent to an adoption evaluation and shall note the sources of verification and information in any report prepared on the evaluation.

(f) An adoption evaluator shall state the basis for the evaluator's conclusions or recommendations in any report prepared on the evaluation.

(g) An adoption evaluation report must

an individual who has worked in a professional capacity with a party, a child, or a member of the party's or child's family only as a teacher of parenting skills in a group setting, with no individualized interaction with any party, the child, any party's family, or the child's family, or as a child custody evaluator or adoption evaluator who performed a previous evaluation. For purposes of this subsection, "family" has the meaning assigned by Section 71.003.

Sec. 107.157. REPORTING CERTAIN PLACEMENTS FOR ADOPTION.

Sec. 107.158. GENERAL PROVISIONS APPLICABLE TO CONDUCT OF ADOPTION EVALUATOR AND PREPARATION OF REPORTS. (a)

Unless otherwise directed by a court or prescribed by this subchapter, an adoption evaluator's actions in conducting an adoption evaluation must be in conformance with the professional standard of care applicable to the evaluator's licensure and any administrative rules, ethical standards, or guidelines adopted by the licensing authority that licenses the evaluator.

(b) A court may impose requirements or adopt local rules applicable to an adoption evaluation or an adoption evaluator that do not conflict with this subchapter.

(c) An adoption evaluator shall follow evidence-based practice methods and make use of current best evidence in making assessments and recommendations.

(d) An adoption evaluator shall disclose to each attorney of record any communication regarding a substantive issue between the evaluator and an attorney of record representing a party in a contested suit. This subsection does not apply to a communication between an adoption evaluator and an amicus attorney.

(e) To the extent possible, an adoption evaluator shall verify each statement of fact pertinent to an adoption evaluation and shall note the sources of verification and information in any report prepared on the evaluation.

(f) An adoption evaluator shall state the basis for the evaluator's conclusions or recommendations in any report prepared on the evaluation.

(g) An adoption evaluation report must

include for each adoption evaluator who conducted any portion of the adoption evaluation:

- (1) the name and license number of the adoption evaluator; and
- (2) a statement that the adoption evaluator:
  - (A) meets the requirements of Section 107.154; or
  - (B) was appointed under Section 107.155.

Sec. 107.159. REQUIREMENTS FOR PRE-PLACEMENT PORTION OF ADOPTION EVALUATION AND REPORT.

Sec. 107.160. REQUIREMENTS FOR POST-PLACEMENT PORTION OF ADOPTION EVALUATION AND REPORT.

Sec. 107.161. INTRODUCTION AND PROVISION OF ADOPTION EVALUATION REPORT AND TESTIMONY RELATING TO ADOPTION EVALUATION.

Sec. 107.162. ADOPTION EVALUATION FEE.

Sec. 107.163. ADOPTION EVALUATOR ACCESS TO INVESTIGATIVE RECORDS OF DEPARTMENT; OFFENSE. (a) An adoption evaluator is entitled to obtain from the department a complete, unredacted copy of any investigative record regarding abuse or neglect that relates to any person residing in the residence subject to the adoption evaluation.  
(b) Except as provided by this section, records obtained by an adoption evaluator from the department under this section are confidential and not subject to disclosure under Chapter 552, Government Code, or to disclosure in response to a subpoena or a discovery request.  
(c) An adoption evaluator may disclose information obtained under Subsection (a) in the adoption evaluation report prepared under Section 107.159 or 107.160 only to the extent the evaluator determines that the information is relevant to the adoption evaluation or a recommendation made under this subchapter.  
(d) A person commits an offense if the

include for each adoption evaluator who conducted any portion of the adoption evaluation:

- (1) the name and license number of the adoption evaluator; and
- (2) a statement that the adoption evaluator:
  - (A) has read and meets the requirements of Section 107.154; or
  - (B) was appointed under Section 107.155.

Sec. 107.159. REQUIREMENTS FOR PRE-PLACEMENT PORTION OF ADOPTION EVALUATION AND REPORT.

Sec. 107.160. REQUIREMENTS FOR POST-PLACEMENT PORTION OF ADOPTION EVALUATION AND REPORT.

Sec. 107.161. INTRODUCTION AND PROVISION OF ADOPTION EVALUATION REPORT AND TESTIMONY RELATING TO ADOPTION EVALUATION.

Sec. 107.162. ADOPTION EVALUATION FEE.

Sec. 107.163. ADOPTION EVALUATOR ACCESS TO INVESTIGATIVE RECORDS OF DEPARTMENT; OFFENSE. (a) An adoption evaluator is entitled to obtain from the department a complete, unredacted copy of any investigative record regarding abuse or neglect that relates to any person residing in the residence subject to the adoption evaluation.  
(b) Except as provided by this section, records obtained by an adoption evaluator from the department under this section are confidential and not subject to disclosure under Chapter 552, Government Code, or to disclosure in response to a subpoena or a discovery request.  
(c) An adoption evaluator may disclose information obtained under Subsection (a) in the adoption evaluation report prepared under Section 107.159 or 107.160 only to the extent the evaluator determines that the information is relevant to the adoption evaluation or a recommendation made under this subchapter.  
(d) A person commits an offense if the

person discloses confidential information obtained from the department in violation of this section. An offense under this subsection is a Class A misdemeanor.

SUBCHAPTER F. EVALUATIONS IN CONTESTED ADOPTIONS

Sec. 107.201. APPLICABILITY.

Sec. 107.202. ASSIGNMENT OF EVALUATIONS IN CONTESTED ADOPTIONS. (a) In a suit in which the adoption of a child is being contested, the court shall determine the nature of the questions posed before appointing an evaluator to conduct either a child custody evaluation or an adoption evaluation.

(b) A court in a suit for termination of parental rights shall order a child custody evaluation under Subchapter D, and instruct the evaluator to address in the evaluation whether termination is in the best interest of the child.

(c) A court that appoints an evaluator to assess the issue of termination of parental rights may, through written order, modify requirements of the child custody evaluation as necessary to address the circumstances of the family situation to be assessed.

(d) A court may instruct an evaluator performing a child custody evaluation to concurrently address the requirements for an adoption evaluation under Subchapter E if the evaluator recommends that termination of parental rights is in the best interest of the child.

(e) A court in a suit to determine whether the parties seeking adoption would be suitable to adopt a child on termination of parental rights may order an adoption evaluation under Subchapter E if the evaluation is not intended to determine whether termination of parental rights is in the child's best interest.

ARTICLE 2. TESTIMONY IN SUITS AFFECTING THE PARENT-CHILD RELATIONSHIP

person ~~recklessly~~ discloses confidential information obtained from the department in violation of this section. An offense under this subsection is a Class A misdemeanor.

SUBCHAPTER F. EVALUATIONS IN CONTESTED ADOPTIONS

Sec. 107.201. APPLICABILITY.

Sec. 107.202. ASSIGNMENT OF EVALUATIONS IN CONTESTED ADOPTIONS. (a) In a suit in which the adoption of a child is being contested, the court shall determine the nature of the questions posed before appointing an evaluator to conduct either a child custody evaluation or an adoption evaluation.

(b) If the court is attempting to determine whether termination of parental rights is in the best interest of a child who is the subject of the suit, the court shall order the evaluation as a child custody evaluation under Subchapter D and include termination as one of the specific issues to be addressed in the evaluation.

(c) When appointing an evaluator to assess the issue of termination of parental rights, the court may, through written order, modify the requirements of the child custody evaluation to take into account the circumstances of the family to be assessed. The court may also appoint the evaluator to concurrently address the requirements for an adoption evaluation under Subchapter E if the evaluator recommends that termination of parental rights is in the best interest of the child who is the subject of the suit.

(d) If the court is attempting to determine whether the parties seeking adoption would be suitable to adopt the child who is the subject of the suit if the termination of parental rights is granted, but the court is not attempting to determine whether such termination of parental rights is in the child's best interest, the court may order the evaluation as an adoption evaluation under Subchapter E.

Same as introduced version.

SECTION 2.01. Chapter 104, Family Code, is amended by adding Section 104.008 to read as follows:

Sec. 104.008. CERTAIN TESTIMONY PROHIBITED. (a) A person may not offer an expert opinion relating to the conservatorship of or possession of or access to a child at issue in a suit unless the person has conducted a child custody evaluation relating to the child under Subchapter D, Chapter 107.

(b) In a contested suit, a mental health professional may provide other relevant information and opinions, other than those prohibited by Subsection (a), relating to any party that the mental health professional has evaluated.

(c) This section does not apply to a suit in which the Department of Family and Protective Services is a party.

SECTION 2.01. Chapter 104, Family Code, is amended by adding Section 104.008 to read as follows:

Sec. 104.008. CERTAIN TESTIMONY PROHIBITED. (a) A person may not offer an expert opinion or recommendation relating to the conservatorship of or possession of or access to a child at issue in a suit unless the person has conducted a child custody evaluation relating to the child under Subchapter D, Chapter 107.

(b) In a contested suit, a mental health professional may provide other relevant information and opinions, other than those prohibited by Subsection (a), relating to any party that the mental health professional has personally evaluated.

(c) This section does not apply to a suit in which the Department of Family and Protective Services is a party.

ARTICLE 3. CONFORMING AMENDMENTS RELATING TO CHILD CUSTODY EVALUATIONS AND ADOPTION EVALUATIONS

Same as introduced version.

SECTION 3.01. Section 153.605(d), Family Code, is amended.

SECTION 3.01. Same as introduced version.

SECTION 3.02. Section 162.0025, Family Code, is amended.

SECTION 3.02. Same as introduced version.

SECTION 3.03. Section 162.003, Family Code, is amended.

SECTION 3.03. Same as introduced version.

SECTION 3.04. Section 162.0045, Family Code, is amended.

SECTION 3.04. Same as introduced version.

SECTION 3.05. Section 203.004(a), Family Code, is amended.

SECTION 3.05. Same as introduced version.

SECTION 3.06. Section 203.005(a), Family Code, is amended.

SECTION 3.06. Same as introduced version.

SECTION 3.07. Sections 411.1285(a) and (c), Government Code, are amended.

SECTION 3.07. Same as introduced version.

SECTION 3.08. Section 152.06331(f), Human Resources Code, is amended.

SECTION 3.08. Same as introduced version.

#### ARTICLE 4. REPEALERS

Same as introduced version.

SECTION 4.01. Sections 107.0515, 107.0519, 107.052, and 107.053, Family Code, are repealed.

SECTION 4.01. Same as introduced version.

#### ARTICLE 5. TRANSITION AND EFFECTIVE DATE

Same as introduced version.

SECTION 5.01. (a) Not later than September 1, 2016, the Texas State Board of Examiners of Psychologists, the Texas State Board of Examiners of Professional Counselors, the Texas State Board of Social Worker Examiners, the Texas State Board of Examiners of Marriage and Family Therapists, and the Texas Medical Board shall adopt any rules necessary for license holders to comply with the requirements of Subchapter D, Chapter 107, Family Code, as amended by this Act, and Subchapters E and F, Chapter 107, Family Code, as added by this Act, and specifying that a person licensed by any of the boards is subject to the rules of the board that licensed the person when appointed by a court to conduct a child custody evaluation under Subchapter D, Chapter 107, Family Code, as amended by this Act, or adoption evaluation under Subchapter E, Chapter 107, Family Code, as added by this Act. The rules adopted under this subsection must:

- (1) specify that any complaint relating to the outcome of a child custody evaluation, adoption evaluation, or other forensic service conducted by a person licensed by any of the boards must be reported to the court that ordered the evaluation instead of to the board that licensed the person; and
- (2) require that license holders receive notice that the disclosure of confidential information in violation of Section 107.111

SECTION 5.01. (a) Not later than September 1, 2016, the Texas State Board of Examiners of Psychologists, the Texas State Board of Examiners of Professional Counselors, the Texas State Board of Social Worker Examiners, the Texas State Board of Examiners of Marriage and Family Therapists, and the Texas Medical Board shall adopt any rules necessary for license holders to comply with the requirements of Subchapter D, Chapter 107, Family Code, as amended by this Act, and Subchapters E and F, Chapter 107, Family Code, as added by this Act, and specifying that a person licensed by any of the boards is subject to the rules of the board that licensed the person when appointed by a court to conduct a child custody evaluation under Subchapter D, Chapter 107, Family Code, as amended by this Act, or adoption evaluation under Subchapter E, Chapter 107, Family Code, as added by this Act. The rules adopted under this subsection must:

- (1) specify that any complaint relating to the outcome of a child custody evaluation, adoption evaluation, or other forensic service conducted by a person licensed by any of the boards must be reported to the court that ordered the evaluation or other forensic services; and
- (2) require that license holders receive notice that the disclosure of confidential information in violation of Section 107.111

or 107.163, Family Code, as added by this Act, is grounds for disciplinary action.

**No equivalent provision.**

(b) As soon as possible after the effective date of this Act, the Texas State Board of Examiners of Psychologists, the Texas State Board of Examiners of Professional Counselors, the Texas State Board of Examiners of Marriage and Family Therapists, and the Texas Medical Board shall adopt rules prohibiting a psychological associate, a licensed specialist in school psychology, a provisionally licensed psychologist, a licensed professional counselor intern, and a licensed marriage and family therapist associate from conducting a child custody evaluation under Subchapter D, Chapter 107, Family Code, as amended by this Act, unless the person is otherwise qualified to conduct the evaluation.

(c) As soon as possible after the effective date of this Act, the executive commissioner of the Health and Human Services Commission shall adopt rules prohibiting a licensed chemical dependency counselor from conducting a child custody evaluation as a child custody evaluator under Subchapter D, Chapter 107, Family Code, as amended by this Act, unless the person is otherwise qualified to conduct the evaluation or is appointed by a court to conduct the evaluation under Section 107.106, Family Code, as added by this Act.

(d) Not later than September 1, 2016, the executive commissioner of the Health and Human Services Commission shall adopt any rules necessary to implement Subchapter E, Chapter 107, Family Code, as added by this Act. Subchapter E, Chapter 107, Family Code, as added by this Act, applies to an adoption evaluation ordered by a court on or after September 1, 2016, or the date the executive commissioner adopts rules under this subsection, whichever date occurs first. An adoption evaluation, pre-placement adoptive social study, or post-placement adoptive social study ordered by a court before that date is governed by the

or 107.163, Family Code, as added by this Act, is grounds for disciplinary action.

(b) Subsection (a) of this section does not affect the authority of a licensing agency that issues a license to a child custody evaluator to enforce compliance with state law and administrative rules applicable to the license holder.

(c) As soon as possible after the effective date of this Act, the Texas State Board of Examiners of Psychologists, the Texas State Board of Examiners of Professional Counselors, and the Texas State Board of Examiners of Marriage and Family Therapists shall adopt rules prohibiting a psychological associate, a licensed specialist in school psychology, a provisionally licensed psychologist, a licensed professional counselor intern, and a licensed marriage and family therapist associate from conducting a child custody evaluation under Subchapter D, Chapter 107, Family Code, as amended by this Act, unless the person is otherwise qualified to conduct the evaluation.

(d) As soon as possible after the effective date of this Act, the executive commissioner of the Health and Human Services Commission shall adopt rules prohibiting a licensed chemical dependency counselor from conducting a child custody evaluation as a child custody evaluator under Subchapter D, Chapter 107, Family Code, as amended by this Act, unless the person is otherwise qualified to conduct the evaluation or is appointed by a court to conduct the evaluation under Section 107.106, Family Code, as added by this Act.

(e) Not later than September 1, 2016, the executive commissioner of the Health and Human Services Commission shall adopt any rules necessary to implement Subchapter E, Chapter 107, Family Code, as added by this Act. Subchapter E, Chapter 107, Family Code, as added by this Act, applies to an adoption evaluation ordered by a court on or after September 1, 2016, or the date the executive commissioner adopts rules under this subsection, whichever date occurs first. An adoption evaluation, pre-placement adoptive social study, or post-placement adoptive social study ordered by a court before that date is governed by the



law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

SECTION 5.02. (a) Notwithstanding any other law, a person is qualified to conduct a child custody evaluation under Section 107.104, Family Code, as redesignated and amended by this Act, or an adoption evaluation under Section 107.154, Family Code, as added by this Act, without satisfying the supervision requirements of Section 107.104(b)(1) or (2) if, on or before the effective date of this Act, the person completes at least 10 social studies or other child custody evaluations ordered by a court in suits affecting the parent-child relationship.

SECTION 5.02. Same as introduced version.

(b) Notwithstanding any other law, a person who is qualified to conduct a social study evaluation under former Section 107.0511(g), Family Code, is authorized to conduct a child custody evaluation before September 1, 2017, without meeting the requirements under Section 107.104, Family Code, as redesignated and amended by this Act, and the former law is continued in effect for that purpose.

SECTION 5.03. The changes in law made by this Act apply to a suit affecting the parent-child relationship that is pending in a trial court on the effective date of this Act or filed on or after that date.

SECTION 5.03. Same as introduced version.

SECTION 5.04. This Act takes effect September 1, 2015.

SECTION 5.04. Same as introduced version.