

## **BILL ANALYSIS**

C.S.H.B. 1216  
By: Deshotel  
Juvenile Justice & Family Issues  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Concerns have been raised that too much litigation is required to determine the applicable legal parent-child relationship when a married couple that has entered into a gestational agreement to have a child through a third party files for divorce. C.S.H.B. 1216 seeks to limit the need for this litigation by providing for an initial disclosure statement relating to a gestational agreement.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 1216 amends the Family Code to require the petition in a suit for dissolution of a marriage, if the parties to the suit are the intended parents under a gestational agreement that is in effect and that establishes a parent-child relationship between the parties as intended parents and an unborn child on the birth of the child, to state that the parties to the marriage have entered into a gestational agreement establishing a parent-child relationship between the parties as intended parents and an unborn child on the birth of the child, whether the gestational mother under the agreement is pregnant or a child who is the subject of the agreement has been born, and whether the agreement has been validated under the Uniform Parentage Act. The bill authorizes an original suit affecting the parent-child relationship to be filed by a person who is an intended parent of a child or unborn child under a gestational agreement that substantially complies with prescribed statutory requirements if the person is filing an original suit jointly with the other intended parent under the gestational agreement or if the person is filing an original suit against the other intended parent under the gestational agreement.

### **EFFECTIVE DATE**

September 1, 2017.

### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 1216 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

SECTION 1. Section 6.406(a), Family Code, is amended to read as follows:

(a) The petition in a suit for dissolution of a marriage shall state whether:

(1) there are children born or adopted of the marriage who are under 18 years of age or who are otherwise entitled to support as provided by Chapter 154;

(2) a party to the marriage is pregnant; or

(3) the parties to the marriage have entered into a gestational agreement establishing a parent-child relationship between the parties and the child to be born under the agreement.

SECTION 2. Section 102.003, Family Code, is amended by amending Subsection (a) and adding Subsection (d) to read as follows:

(a) An original suit may be filed at any time by:

- (1) a parent of the child;
- (2) the child through a representative authorized by the court;
- (3) a custodian or person having the right of visitation with or access to the child appointed by an order of a court of another state or country;
- (4) a guardian of the person or of the estate of the child;
- (5) a governmental entity;
- (6) the Department of Family and Protective Services;
- (7) a licensed child placing agency;
- (8) a man alleging himself to be the father of a child filing in accordance with Chapter 160, subject to the limitations of that chapter, but not otherwise;
- (9) a person, other than a foster parent, who has had actual care, control, and possession of the child for at least six months ending not more than 90 days preceding the date of the filing of the petition;
- (10) a person designated as the managing conservator in a revoked or unrevoked

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 6.406, Family Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) If the parties to a suit for dissolution of a marriage are the intended parents under a gestational agreement that is in effect and that establishes a parent-child relationship between the parties as intended parents and an unborn child on the birth of the child, the petition in the suit for dissolution of a marriage shall state:

(1) that the parties to the marriage have entered into a gestational agreement establishing a parent-child relationship between the parties as intended parents and an unborn child on the birth of the child;

(2) whether the gestational mother under the agreement is pregnant or a child who is the subject of the agreement has been born; and

(3) whether the agreement has been validated under Section 160.756.

SECTION 2. Section 102.003, Family Code, is amended by amending Subsection (a) and adding Subsection (d) to read as follows:

(a) An original suit may be filed at any time by:

- (1) a parent of the child;
- (2) the child through a representative authorized by the court;
- (3) a custodian or person having the right of visitation with or access to the child appointed by an order of a court of another state or country;
- (4) a guardian of the person or of the estate of the child;
- (5) a governmental entity;
- (6) the Department of Family and Protective Services;
- (7) a licensed child placing agency;
- (8) a man alleging himself to be the father of a child filing in accordance with Chapter 160, subject to the limitations of that chapter, but not otherwise;
- (9) a person, other than a foster parent, who has had actual care, control, and possession of the child for at least six months ending not more than 90 days preceding the date of the filing of the petition;
- (10) a person designated as the managing conservator in a revoked or unrevoked

affidavit of relinquishment under Chapter 161 or to whom consent to adoption has been given in writing under Chapter 162;

(11) a person with whom the child and the child's guardian, managing conservator, or parent have resided for at least six months ending not more than 90 days preceding the date of the filing of the petition if the child's guardian, managing conservator, or parent is deceased at the time of the filing of the petition;

(12) a person who is the foster parent of a child placed by the Department of Family and Protective Services in the person's home for at least 12 months ending not more than 90 days preceding the date of the filing of the petition;

(13) a person who is a relative of the child within the third degree by consanguinity, as determined by Chapter 573, Government Code, if the child's parents are deceased at the time of the filing of the petition; [ø]

(14) a person who has been named as a prospective adoptive parent of a child by a pregnant woman or the parent of the child, in a verified written statement to confer standing executed under Section 102.0035, regardless of whether the child has been born; or

(15) subject to Subsection (d), a person who is an intended parent of a child under a gestational agreement that substantially complies with the requirements of Section 160.754, regardless of whether the child has been born.

(d) A person described by Subsection (a)(15) has standing to file an original suit only if:

(1) the person is filing an original suit jointly with the other intended parent under the gestational agreement; or

(2) the person is filing an original suit against the other intended parent under the gestational agreement.

SECTION 3. Section 6.406(a), Family Code, as amended by this Act, applies only to a petition for dissolution of a marriage that is filed on or after the effective date of this Act. A petition for dissolution of a marriage that is filed before the effective date of this Act is governed by the law in effect on the date the petition is filed, and the former law is continued in effect for that purpose.

affidavit of relinquishment under Chapter 161 or to whom consent to adoption has been given in writing under Chapter 162;

(11) a person with whom the child and the child's guardian, managing conservator, or parent have resided for at least six months ending not more than 90 days preceding the date of the filing of the petition if the child's guardian, managing conservator, or parent is deceased at the time of the filing of the petition;

(12) a person who is the foster parent of a child placed by the Department of Family and Protective Services in the person's home for at least 12 months ending not more than 90 days preceding the date of the filing of the petition;

(13) a person who is a relative of the child within the third degree by consanguinity, as determined by Chapter 573, Government Code, if the child's parents are deceased at the time of the filing of the petition; [ø]

(14) a person who has been named as a prospective adoptive parent of a child by a pregnant woman or the parent of the child, in a verified written statement to confer standing executed under Section 102.0035, regardless of whether the child has been born; or

(15) subject to Subsection (d), a person who is an intended parent of a child or unborn child under a gestational agreement that substantially complies with the requirements of Section 160.754.

(d) A person described by Subsection (a)(15) has standing to file an original suit only if:

(1) the person is filing an original suit jointly with the other intended parent under the gestational agreement; or

(2) the person is filing an original suit against the other intended parent under the gestational agreement.

SECTION 3. Section 6.406, Family Code, as amended by this Act, applies only to a petition for dissolution of a marriage that is filed on or after the effective date of this Act. A petition for dissolution of a marriage that is filed before the effective date of this Act is governed by the law in effect on the date the petition is filed, and the former law is continued in effect for that purpose.

SECTION 4. This Act takes effect  
September 1, 2017.

SECTION 4. Same as introduced version.