

BILL ANALYSIS

C.S.H.B. 205
By: Keough
Human Services
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties contend that additional standards are needed with regard to a court order requiring participation in child and family services of the Department of Family and Protective Services by an abused or neglected child's parent, managing conservator, or guardian or by another member of the child's household in order to avoid undue distress to the child. C.S.H.B. 205 seeks to provide for the additional standards.

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. 205 amends the Family Code to condition a court's authority to order the participation in certain Department of Family and Protective Services (DFPS) child and family services for a child's parent, managing conservator, or guardian or by another member of the child's household, on the court finding by a preponderance of the evidence that abuse or neglect has occurred or is likely to occur. The bill requires a court, before the court may order such participation, to advise any person who is not represented by an attorney of the right to be represented by an attorney and if the person is indigent and opposes the order to participate in the services, of the right to a court-appointed attorney subject to specified procedures. The bill prohibits the court, if a parent, managing conservator, guardian, or other member of the subject child's household is opposed to participating in services and is not represented by an attorney at the hearing, from ordering the person to participate in services until the person has either retained or been appointed an attorney.

EFFECTIVE DATE

September 1, 2017.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 205 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 264.203, Family Code, is amended to read as follows:

Sec. 264.203. REQUIRED PARTICIPATION.

(a) Except as provided by Subsection (d),

the court on request of the department; and upon hearing evidence at trial; may order the parent, managing conservator, guardian, or other member of the subject child's household to:

(1) participate in the services the department provides or purchases for:

(A) alleviating the effects of the abuse or neglect that has occurred; or

(B) reducing the reasonable likelihood that the child may be abused or neglected in the immediate or foreseeable future; and

(2) permit the child and any siblings of the child to receive the services.

(b) The department may request the court to order the parent, managing conservator, guardian, or other member of the child's household to participate in the services whether the child resides in the home or has been removed from the home.

(c) If the person ordered to participate in the services fails to follow the court's order, the court may impose appropriate sanctions in order to protect the health and safety of the child, including the removal of the child as specified by Chapter 262.

(d) If the court does not order the person to participate, the court in writing shall specify the reasons for not ordering participation.

(3) The department shall prove with clear and convincing evidence during trial that respondents to suit have abused or neglected a child or children in respondents care, or through clear and convincing evidence the department can show that respondents are likely to abuse or neglect a child or children in respondents care in the immediate or foreseeable future.

(4) Notwithstanding any other section a parent, managing conservator, guardian or other member of the subject child(s) household shall be afforded and appointed a court appointed attorney if a suit for required participation is brought against them in a court of law.

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 264.203, Family Code, is amended by amending Subsection

(a) and adding Subsections (e) and (f) to read as follows:

(a) Except as provided by Subsection (d), if the court finds by a preponderance of the evidence that abuse or neglect has occurred or is likely to occur,

the court on request of the department may order the parent, managing conservator, guardian, or other member of the subject child's household to:

(1) participate in the services the department provides or purchases for:

(A) alleviating the effects of the abuse or neglect that has occurred; or

(B) reducing the reasonable likelihood that the child may be abused or neglected in the immediate or foreseeable future; and

(2) permit the child and any siblings of the child to receive the services.

(e) Before the court may order the participation of a parent, managing conservator, guardian, or other member of the subject child's household in services, the court shall advise any person who is not represented by an attorney of:

(1) the right to be represented by an

attorney; and

(2) if the person is indigent and opposes the order to participate in services, the right to a court-appointed attorney, subject to the procedures in Section 263.0061(b).

(f) If a parent, managing conservator, guardian, or other member of the subject child's household is opposed to participating in services and is not represented by an attorney at the hearing, the court may not order the person to participate in services until the person has either retained or been appointed an attorney.

SECTION 2. The changes in law made by this Act to Section 264.203, Family Code, apply only to case before a court after the effective date of this Act. A case before a court before the effective date of this Act is governed by the law in effect on the date the case was filed with a court of law, and the former law is continued in effect for that purpose.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2017.

SECTION 2. The changes in law made by this Act apply to a suit affecting the parent-child relationship filed on or after the effective date of this Act. A suit affecting the parent-child relationship filed before the effective date of this Act is governed by the law in effect on the date the suit was filed, and the former law is continued in effect for that purpose.

SECTION 3. This Act takes effect September 1, 2017.