

SUBJECT: Amending requirements for parent-child termination and adoption suits

COMMITTEE: Juvenile Justice and Family Issues — committee substitute recommended

VOTE: 7 ayes — Goodman, A. Reyna, P. King, Menendez, Morrison, Naishtat, Nixon
0 nays
2 absent — E. Reyna, Tillery

WITNESSES: For — Heidi Bruegel Cox, The Gladney Center and American Association of Adoption Attorneys; Susan I. Paquet, American Association of Adoption Attorneys
Against — None

BACKGROUND: Under Family Code, sec. 107.051, a court may order a post-adoptive report (social study) into the circumstances and condition of a child and of the home of any person who requests managing conservatorship or possession of the child. The Texas Department of Regulatory Services (DPRS), another state agency, or a person appointed by the court may perform the study. In a suit in which DPRS is not a party, the court must appoint a private agency or person to perform the study. Chapter 161 governs suits affecting termination of the parent-child relationship, and chapter 162 governs adoptions.

Parent-child termination cases brought by DPRS or a licensed child-placing agency are subject to DPRS rules set out in Texas Administrative Code, Title 40. These rules address the qualifications of people who conduct pre-adoptive home screenings and social studies and the standards for conducting those studies. In these cases, courts sometimes do not order pre-adoptive screenings of the adoptive family at the time of the parent-child termination because the termination occurs before matching the child with adoptive parents. In private adoptions, no statute specifically requires a social study of the adopting family.

DIGEST: CSHB 1632 would amend the Family Code to make pre-adoptive home screenings mandatory in cases where a request for the termination of a parent-child relationship has been filed, except for suits filed by DPRS or a licensed child-placing agency. In cases where a home screening was required, both the home screening and a post-placement adoptive report (social study) would have to be filed with the court before the court could terminate the parent-child relationship. The screening and report would have to comply with the minimum standards set by DPRS unless otherwise agreed to by the court. The prospective adoptive parents would have to pay the cost of the screening and the social study. In a stepparent adoption, the two procedures could be combined.

CSHB 1632 also would amend Family Code, sec. 107.051(b) to specify that a private entity may conduct a social study for a parent-child case and that DPRS may do so if the agency is a party to the suit.

CSHB 1632 would amend Family Code, sec. 105.006(a) to specify that the final order in an adoption need not include information as laid out in the requirements for a custody final order. It would repeal Family Code, sec. 162.0025, the current statute on pre-adoptive home screenings, and sec. 162.004, referring to the time of a hearing, as well as language in other statutes relating to the qualifications of people who conduct social studies and the standards for conducting such studies.

This bill would take effect September 1, 2001, and would apply only to a suit affecting the parent-child relationship filed on or after that date.

SUPPORTERS SAY: CSHB 1632 would clear up confusion and inconsistency in the law regarding the requirements for private adoptions and would protect children in private adoption cases. Since DPRS regulates agency adoptions, the requirements in these cases are clearer. Existing licensing regulations require a child-placing agency to conduct a home study before placing a child for adoption. In private adoptions, however, the court often does not order post-placement reports, and adoptions can be finalized without a proper inspection of the child's adjustment into the new home. Lawsuits have resulted in children being removed after the adoption was finalized. By requiring post-placement reports, this bill could help could avert such cases.

OPPONENTS SAY: CSHB 1632 would put an additional financial burden on private adoptions. Many people choose private adoptions because they cannot afford agency adoptions. Prospective adoptive parents in private adoptions now must pay only medical and legal expenses. This bill would require them to pay for pre-adoptive screenings and post-adoptive reports.

NOTES: The committee substitute would amend the filed version by reinstating the requirement for the court to appoint a private agency or person to conduct a social study in a suit in DPRS is not a party.