

- SUBJECT:** Limited contact with a child when the parent's rights have been terminated
- COMMITTEE:** Juvenile Justice and Family Issues — favorable, without amendment
- VOTE:** 8 ayes — Dutton, Goodman, Baxter, Dunnam, Hodge, J. Moreno, Morrison, Reyna
0 nays
1 absent — Castro
- WITNESSES:** For — Harold C. Gaither, Jr.
Against — None
- BACKGROUND:** Under Family Code, sec. 161.206, a court must render an order terminating a parent-child relationship if the court has found clear and convincing evidence of grounds for termination. The order divests the biological parent and child of all legal rights and duties with respect to each other, except that the child retains inheritance rights, unless the court provides otherwise. The order does not preclude or affect the rights of grandparents to reasonable access.
- DIGEST:** HB 1536 would outline conditions for allowing limited post-termination contact between the biological parent and child as part of an order terminating parental rights if the court found such contact to be in the child's best interest. The order could allow the biological parent to receive specified information about the child, to provide written communication to the child, and to have limited access to the child. The portion of the order regarding limited contact could be enforced only if the party seeking enforcement proved that he or she had attempted in good faith to resolve the dispute through mediation before seeking enforcement. The terms of an order allowing post-termination contact would not be enforceable by contempt of court and could not be modified. The inclusion of limited-contact conditions would not affect the finality of a termination order or subsequent adoption order, nor would it grant standing to a parent whose rights had been terminated to file an action, other than a motion to enforce the terms regarding limited contact.

A termination order could not require that a subsequent adoption order include terms regarding contact between the child and a biological parent.

A biological parent's affidavit of voluntary relinquishment of parental rights could not contain terms for post-termination contact as a condition of relinquishing parental rights.

The bill would take effect September 1, 2003.

**SUPPORTERS
SAY:**

HB 1536 would establish procedures and conditions for allowing limited contact when parental rights have been terminated. Many terminations occur through mediation between the biological parent and the Texas Department of Protective and Regulatory Services (DPRS), which usually has responsibility for the child until the child is adopted. While mediation generally is a good process for arriving at these agreements, the lack of clear statutory guidelines can lead to confusion and disagreement after an order has been finalized.

By specifying that any limited post-termination contact must be in the child's best interest, the bill would highlight an important aspect of the process that is not included in current law.

HB 1536 would address the fairly short period between the time a biological parent's rights are terminated and an adoptive parent's rights begin. Even though an adoptive parent may not have been involved in the agreement regarding the biological parent's contact with the child, the limited contact should not be a concern for the adoptive parent if it is considered to be in the child's best interest.

**OPPONENTS
SAY:**

Limited-contact agreements usually are made between the biological parent and DPRS representatives without the input of adoptive parents, who could be subject to the bill's conditions for as long as a year. The bill should include a provision allowing adoptive parents to have the terms of the limited-contact agreement modified if problems arise before the adoption is finalized.

NOTES:

A related bill, HB 1689 by Phillips, would allow parties to an adoption to enter into agreements allowing the parent whose rights had been terminated to have possession of or access to the child at specified times, or other contact as

provided by the agreement. The bill has been referred to the House Juvenile Justice and Family Issues Committee.