

- SUBJECT:** Family violence as risk factor for international parental child-abduction
- COMMITTEE:** Judiciary and Civil Jurisprudence — favorable, without amendment
- VOTE:** 8 ayes — Hunter, Hughes, Branch, Jackson, Leibowitz, Lewis, Madden, Woolley
- 0 nays
- 3 absent — Alonzo, Hartnett, Martinez
- SENATE VOTE:** On final passage, April 2 — 31-0, on Local and Uncontested Calendar
- WITNESSES:** For — Krista DelGallo, Texas Council on Family Violence; (*Registered, but did not testify*: Pamela Brown, Texas RioGrande Legal Aid, Inc.)
- Against — None
- BACKGROUND:** Under Family Code, ch. 153, subch. I, a court, on its own motion or at the request of a party to a suit affecting the parent-child relationship, will determine if it is necessary for the court to take measures to protect a child from international abduction by a parent, if credible evidence is presented to the court indicating a potential risk of international abduction. The court considers evidence that the parent:
- has taken, enticed away, kept, or concealed a child in violation of another person's right of possession of or access to the child, unless the parent presents evidence that the parent believed in good faith that the parent's conduct was necessary to avoid imminent harm to the child;
 - has previously threatened to take, entice away, keep, or conceal a child in violation of another person's right of possession of or access to the child;
 - has recently engaged in planning activities that could facilitate the parent's removal of the child from the United States, including applying for a passport or visa for the parent or the child;
 - has a history of domestic violence evidenced by the intentional use of abusive physical force by a party against the party's spouse, a

parent of the child, or any person younger than 18 years of age committed within a two-year period preceding the filing of the suit or during the pendency of the suit affecting the parent-child relationship; or

- has a criminal history or a history of violating court orders.

DIGEST:

SB 491 would amend Family Code, sec. 153.502 by providing that the court would be required to consider evidence that the parent:

- had taken, enticed away, kept, or concealed a child in violation of another person's right of possession of or access to the child, unless the parent presented evidence that the parent believed in good faith that the parent's conduct was necessary to avoid imminent harm to the child or the parent; or
- had recently engaged in planning activities that could facilitate the parent's removal of the child from the U.S., including obtaining other travel documents for the parent or child.

In considering evidence of planning activities, the court also would consider any evidence that the parent engaged in those activities as part of a safety plan to flee from family violence.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2009, and would apply only to suits affecting the parent-child relationship on or after this date.