

BILL ANALYSIS

Senate Research Center

S.B. 798
By: Harris
Jurisprudence
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As Filed

DIGEST

Currently, Texas law requires that a party's first pleading in a dissolution-of-marriage or a parent-child relationship suit agree in good faith to use alternative dispute resolution (ADR) without the necessity of court intervention. However, if the parties to a suit can resolve their differences without the necessity of ADR, they should not be required to use ADR or violate their statement to the court. In Chapter 262, Family Code, "emergency" proceedings an ADR agreement would be inappropriate. The current law on awards from nonbinding arbitration does not clarify that the "best interest of the child" standard should also apply. This bill will clarify that if parties to a dissolution of marriage or parent-child relationship suit can resolve differences without ADR, they are not required to use ADR; that emergency proceedings do not require ADR; and that the "best interest of the child" standard applies to awards resulting from nonbinding arbitration.

PURPOSE

As proposed, S.B. 798 clarifies that if parties to a dissolution of marriage or parent-child relationship suit can resolve differences without alternative dispute resolution (ADR), they are not required to use ADR; that emergency proceedings do not require ADR; and that the "best interest of the child" standard applies to awards resulting from nonbinding arbitration.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 3.522(a), Family Code, to require a party to a proceeding under this title to include in the first pleading filed by the party in the proceeding a statement that includes the statement "...I represent to the court that I will attempt in good faith to resolve before final trial contested issues in this case by alternative dispute resolution without the necessity of court intervention."

SECTION 2. Amends Sections 102.0085(a) and (c), Family Code, to require a party to a proceeding brought under Chapters 156, 160, and 161 to include a statement regarding alternative dispute resolution in the first pleading filed by the party in the proceeding. Provides that the statement in Subsection (a) is not required for a motion or pleading that seeks relief under Chapter 262. Makes a conforming change.

SECTION 3. Amends Section 153.0071(b), Family Code, to prohibit the court, if the parties agree to nonbinding arbitration, from rendering an order reflecting the arbitrator's award unless the court determines at a non-jury hearing that the award is in the best interest of the child.

SECTION 4. Effective date: September 1, 1997.
Makes application of this Act prospective.

SECTION 5. Emergency clause.