

BILL ANALYSIS

Senate Research Center

H.B. 1622
By: Goodman (Harris)
Jurisprudence
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Engrossed

DIGEST

Over time, the Texas Legislature has modified the Family Code in a variety of ways to update the code with regard to changes in federal law, current social practices and realities, new legal standards, or to correct errors and omissions from past legislatures. H.B. 1622 would clarify certain procedures in the Family Code.

PURPOSE

As proposed, H.B. 1622 clarifies certain procedures in the Family Code.

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 102.003, Family Code, to authorize an original suit to be filed at any time by a person, other than a foster parent, who has had actual care, control, and possession of the child for a least six months ending not more than 90 days preceding the date of the filing of the petition, rather than no less than six months preceding the filing of the petition; a person who is the foster parent of a child placed by the Department of Protective and Regulatory Services in the person's home for at least 12 months ending not more than 90 days preceding the date of the filing of the petition, rather than a period of not less than 18 months preceding the date of the filing of the petition. Prohibits the court, in computing the time necessary for standing under Subsections (a) (9), (11), and (12), from requiring that the time be continuous and uninterrupted but shall consider the child's principal residence during the relevant time preceding the date of commencement of the suit. Makes conforming changes.

SECTION 2. Amends Sections 105.001(b) and (d), Family Code, to provide that a temporary restraining order or temporary injunction granted under this section need not include an order setting the cause of trial on the merits with respect to the ultimate relief requested. Deletes text authorizing the court, in a suit, to dispense with necessity of setting the cause for trial on the merits with respect to the ultimate relief requested. Makes conforming changes.

SECTION 3. Amends Section 107.0135, Family Code, to make a nonsubstantive change.

SECTION 4. Amends Section 107.014(a), Family Code, to require an attorney ad litem appointed under this subchapter to represent a child to become familiar with the American Bar Association's standards of practice for lawyers who represent children in abuse and neglect cases.

SECTION 5. Amends Section 107.015, Family Code, as follows:

Sec. 107.015. New heading: ATTORNEY AD LITEM FEES. Provides that an attorney appointed to represent a child or parent as authorized by this subchapter is entitled to reasonable fees and expenses, rather than a reasonable fee, in the amount set by the court to be paid by the parents of the child unless the parents are indigent. Authorizes the fees and expenses, rather than the costs, to be ordered paid by one or more of those parties, rather than by either or both parties, or the court or associate judge may order one or more of those parties, prior to final hearing, to pay sums in to the registry of the court or into an account authorized by the court for the use and benefit of the attorney ad litem on order of the court, if the court or associate judge determines that one or more of the parties are able to defray the costs of an attorney ad litem's fees and expenses,

rather than compensation.

SECTION 6. Amends Section 153.434, Family Code, to prohibit a biological or adoptive grandparent from requesting possession of or access to a grandchild if each of the biological parents of the grandchild meet certain criteria, including the grandchild has been adopted, or is the subject of a pending suit for adoption, by a person other than the child's stepparent. Deletes text prohibiting a biological or adoptive grandparent from requesting possession of or access to a grandchild if the grandparent is a parent of a person whose parental rights with the child have been terminated by court order or by death; and the other biological parent has died, has executed an affidavit of waiver of interest in child or an affidavit of relinquishment of parental rights, or has had that parent's parental rights terminated. Makes conforming changes.

SECTION 7. Amends Section 156.104(a), Family Code, to delete text authorizing the court to modify a certain order if certain circumstances exist and the court finds that retention of a sole managing conservatorship would be detrimental to the welfare of the child.

SECTION 8. Amends Section 161.001, Family Code, to authorize the court to order termination of a parent-child relationship under certain conditions when the parent has acted in a certain manner including contumaciously refused to submit to a reasonable and lawful order of a court under Chapter 261D, rather than Chapter 264; been convicted or has been placed on community supervision, for being criminally responsible for the death or serious injury of a child under certain sections of the Penal Code, including Section 19.04 (manslaughter); used a controlled substance after completion of a court-ordered substance treatment program, continued to abuse a controlled substance; or knowingly engaged in criminal conduct that has resulted in the parent's conviction of an offense and confinement or imprisonment.

SECTION 9. Effective date: September 1, 1999.
Makes application of this Act prospective.

SECTION 10. Emergency clause.