

BILL ANALYSIS

Senate Research Center
76R11334 E

C.S.H.B. 819
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Jurisprudence
5/4/1999
Committee Report (Substituted)

DIGEST

Currently, victims of family violence may be required by a court to participate in mediation for a suit to dissolve a marriage or a suit affecting the parent-child relationship. This may cause the victim additional trauma and place the victim at a disadvantage in negotiating resolution of the suit. C.S.H.B. 819 would protect against family violence in family law cases and in certain other cases involving alternative dispute resolution procedures.

PURPOSE

As proposed, C.S.H.B. 819 sets forth requirements for protecting against family violence in family law cases and in certain other cases involving alternative dispute resolution procedures.

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 6.602, Family Code, by adding Subsection (d), to authorize a party at any time prior to the final mediation order file a written objection to the referral of a suit for dissolution of a marriage to mediation on the basis of family violence having been committed against the objecting party by the other party. Prohibits the suit from being referred to mediation unless the other party requests a hearing on the objection, after an objection is filed. Prohibits the court from referring the suit to mediation, if the court finds that a preponderance of the evidence supports the objection.

SECTION 2. Amends Section 153.0071, Family Code, by adding Subsection (f), to authorize a party at any time prior to the final mediation order to file a written objection to the referral of a suit affecting the parent-child relationship to mediation on the basis of family violence having been committed by another party against the objecting party or a child who is the subject of the suit. Sets forth certain conditions for a suit to be referred to mediation. Requires a court to order appropriate measures to be taken to ensure the physical and emotional safety of the party who filed the objection, upon referral of the suit to mediation. Requires the order to provide that the parties not be required to have face-to-face contact and to be placed in separate rooms during mediation. Provides that this subsection does not apply to suits filed under Chapter 262.

SECTION 3. Amends Section 154.022, Civil Practice Remedies Code, by adding Subsection (d), to require evidence that a party has committed an act of family violence against another party to be sufficient evidence for an objection filed under Subsection (b).

SECTION 4. Effective date: September 1, 1999.
Makes application of this Act retroactive.

SECTION 5. Emergency clause.

SUMMARY OF COMMITTEE CHANGES

SECTION 1.

Amends Section 6.602, Family Code, by adding Subsection (d), to authorize a party at any time prior to the final mediation order to file a written objection to the referral of a suit for dissolution of a marriage to mediation on the basis of family violence having been committed against the objecting party by the other party. Prohibits the suit from being referred to mediation unless the other party requests a hearing on the objection, after an objection is filed. Prohibits the court from referring the suit to mediation, if the court finds that a preponderance of the evidence supports the objection. Deletes text authorizing a party to file an objection to the referral of a suit to mediation.

SECTION 2.

Deletes proposed Section 101.0125, Family Code, regarding family violence. Amends Section 153.0071, Family Code, by adding Subsection (f), to authorize a party at any time prior to the final mediation order to file a written objection to the referral of a suit affecting the parent-child relationship to mediation on the basis of family violence having been committed by another party against the objecting party or a child who is the subject of the suit. Sets forth certain conditions for a suit to be referred to mediation. Requires a court to order appropriate measures to be taken to ensure the physical and emotional safety of the party who filed the objection, upon referral of the suit to mediation. Requires the order to provide that the parties not be required to have face-to-face contact and to be placed in separate rooms during mediation. Provides that this subsection does not apply to suits filed under Chapter 262.

SECTION 3.

Deletes proposed Subsections 153.0071(f) and (g), Family Code, regarding the referral of a suit to mediation. Amends Section 153.0071, Family Code, by adding Subsection (d), to require evidence that a party has committed an act of family violence against another party to be sufficient evidence for an objection filed under Subsection (b).

SECTION 4.

Makes application of this Act retroactive, rather than prospective.