

BILL ANALYSIS

Senate Research Center
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C.S.H.B. 772
By: Dutton (Harris)
Jurisprudence
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Under current law, a court can order a social study to be done on the circumstances and condition of a child and the home of any person requesting managing conservatorship or possession of the child. This study may be done by a private entity, a person appointed by the court, or the Department of Family and Protective Services (DFPS) if DFPS is a party to the suit. In any case, however, there are no required qualifications of a person who conducts a social study.

Additionally, Chapter 203, Family Code provides the framework for the establishment, administration, powers, duties, fees and charges of a county domestic relations office. These offices serve the families of Texas by focusing on the needs of children involved in family litigation by providing a variety of services, such as access and visitation enforcement, appointments of guardians ad litem, social study investigations, parent education and child support services. However, parent coordinating services and alternative dispute resolution services are currently not included in those offered services. These offices are also not authorized to check the criminal background on a person with possession of or access to a child.

C.S.H.B. 772 provides minimum qualifications for persons who conduct social studies and guidelines for the evaluation of those persons. This bill also authorizes a domestic relations office to offer alternative dispute resolution services and parent coordinating services and to charge a reasonable fee for said services. This bill entitles a domestic relations office to certain documents relating to a person's criminal history from the Department of Public Safety.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 3 (Sections 107.0511 and 107.0519, Family Code) of this bill.

Rulemaking authority previously granted to the Board of Protective and Regulatory Services is transferred to the executive commissioner of the Health and Human Services Commission in SECTION 3 (Section 107.0519, Family Code) and SECTION 4 (Section 107.052, Family Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter D, Chapter 107, Family Code, by adding Section 107.0501, as follows:

Sec. 107.0501. DEFINITIONS. Defines "social study" and "social study evaluator."

SECTION 2. Amends Section 107.051, Family Code, as follows:

Sec. 105.051. ORDER FOR SOCIAL STUDY. (a) Authorizes the court to order the preparation of a social study into the circumstances and condition of a child who is the subject of a suit or a party to a suit and the home of any person requesting, rather than managing, conservatorship of, possession of, or access to a child. Makes conforming changes.

(b) Authorizes a domestic relations office or the Department of Family and Protective Services (DFPS), rather than the Department of Protective and Regulatory Services (DPRS), among other certain entities, to make a social study.

(c) Requires the court to appoint a private agency, another person, or a domestic relations office, rather than a private agency or another person, including such an office, to conduct the social study in a suit in which adoption is requested or conservatorship of, possession of, or access to a child is an issue and in which such a study has been ordered. Makes a conforming change.

(d) Requires each individual who conducts a social study to be qualified under Section 107.0511, except as provided by Section 107.0511(b).

SECTION 3. Amends Subchapter D, Chapter 107, Family Code, by amending Section 107.0511 and adding Sections 107.0512, 107.0513, 107.0515, and 107.0519, as follows:

Sec. 107.0511. SOCIAL STUDY EVALUATOR: MINIMUM QUALIFICATIONS. (a) Defines "full-time experience" and "human services field of study."

(b) Sets forth certain circumstances in which the minimum qualifications prescribed by this section do not apply to an individual conducting a social study.

(c) Requires the executive commissioner of the Health and Human Services Commission (HHSC) to adopt rules prescribing the minimum qualifications that an employee or other authorized representative of either a licensed child-placing agency or DFPS must possess in order to conduct a social study under this subchapter.

(d) Sets forth certain education, experience, and employment criteria required to be met in order for a person to be qualified to conduct a social study.

(e) Authorizes the court to authorize an individual determined by the court to be otherwise qualified to conduct the social study if an individual who meets the requirements of this section is not available in the county served by the court.

(f) Requires an individual to complete at least eight hours of family violence dynamics training provided by a family violence service provider, in addition to the qualifications prescribed by this section, to be qualified to conduct a social study.

Sec. 107.0512. SOCIAL STUDY EVALUATOR: CONFLICTS OF INTEREST AND BIAS. (a) Requires a social study evaluator (evaluator) who has a conflict of interest with any party in a disputed suit or who may be biased on the basis of previous knowledge, other than knowledge obtained in a court-ordered evaluation, to decline to conduct a social study for the suit or to disclose any issue or concern to the court before accepting the appointment or assignment.

(b) Authorizes an evaluator who has previously conducted a social study to conduct all subsequent evaluations in the suit unless the court finds that the evaluator is biased.

(c) Provides that this section does not prohibit a court from appointing an employee of DFPS to conduct a social study in a suit in which adoption is requested or possession of or access to a child is an issue and in which DFPS is a party or has an interest.

Sec. 107.0513. GENERAL PROVISIONS APPLICABLE TO CONDUCT OF SOCIAL STUDY AND PREPARATION OF REPORT. (a) Requires an evaluator's actions in conducting a social study to be in conformance with the professional standard of care applicable to the evaluator's licensure and any administrative rules, ethical standards, or

guidelines adopted by the state agency that licenses the evaluator unless otherwise directed by a court or prescribed by a provision of this title.

(b) Authorizes a court to impose requirements or adopt local rules applicable to a social study or an evaluator in addition to the requirements prescribed by this subchapter.

(c) Requires an evaluator to follow evidence-based practice methods and to make use of current best evidence in making assessments and recommendations.

(d) Requires an evaluator to disclose any communication regarding a substantive issue between the evaluator and an attorney of record representing a party in a disputed suit to each such attorney. Provides that this subsection does not apply to a communication between an evaluator and an attorney ad litem or amicus attorney.

(e) Requires an evaluator, to the extent possible, to verify each statement of fact pertinent to a social study and to note the sources of verification and information in the report.

(f) Requires an evaluator to state the basis for the evaluator's conclusions or recommendations in the report. Requires an evaluator who has only evaluated one side of a disputed case to refrain from making a recommendation regarding conservatorship of, possession of, or access to a child, but authorizes the evaluator to state whether the party evaluated appears to be suitable for conservatorship.

(g) Requires each social study subject to this subchapter to be conducted in compliance with this subchapter, regardless of certain circumstances.

(h) Requires a social study report to include the name, license number, and basis for qualification under Section 107.0511, of each evaluator who conducted any portion of the social study.

Sec. 107.0514. ELEMENTS OF SOCIAL STUDY. (a) Sets forth the basic elements of a social study (basic element).

(b) Sets forth certain additional elements of a social study (additional element).

(c) Prohibits an evaluator from offering an opinion regarding conservatorship of a child at issue in a suit or possession of or access to the child unless each basic element has been completed. Requires an evaluator to identify in the report any additional element that was not completed and to explain the reasons for the lack of completion.

Sec. 107.0515. REPORTS OF CERTAIN PLACEMENTS FOR ADOPTION. Requires an evaluator to report to DFPS any adoptive placement that appears to have been made by someone other than a licensed child-placing agency or the child's parents or managing conservator.

Sec. 107.0519. New heading: PRE-ADOPTIVE SOCIAL STUDY. (a) Redesignates text from Section 107.0511(a). Provides that this section does not apply to a suit brought by a licensed child-placing agency or DFPS. Provides that the procedures required in relation to a study prepared by a licensed child-placing agency or DFPS are governed by rules adopted by the executive commissioner of HHSC (executive commissioner), including rules adopted under Chapter 42 (Regulation of Certain Facilities, Homes, and Agencies That Provide Child-Care Services), Human Resources Code. Deletes existing text referencing DPRS.

(b) Redesignates text from existing Section 107.0511(b). Requires a pre-adoptive social study, rather than home screening, to be conducted as provided by this section.

(c) Redesignates text from existing Section 107.0511(c). Requires the pre-adoptive social study to be filed in any suit for termination of the parent-child relationship in which a person other than a parent may be appointed managing conservator of a child or an adoption. Deletes existing text providing an exception to this subsection for a suit brought by a licensed child-placing agency or DFPS.

(d) Redesignates text from existing Section 107.0511(d). Makes conforming changes.

(e) Redesignates text from existing Section 107.0511(e). Makes a conforming change.

(f) Redesignates text from existing Section 107.0511(f). Requires the pre-adoptive social study to comply with the minimum requirements for the study under rules adopted by the executive commissioner, rather than the Board of Protective and Regulatory Services. Makes conforming changes.

(g) Redesignates text from existing Section 107.0511(g). Authorizes the combination of the pre-adoptive social study and the post-placement adoptive social study, rather than report, under Section 107.052, into a single report. Provides that the pre-adoptive social study, under this subsection, will be completed after the child is placed in the home.

SECTION 4. Amends Section 107.052, Family Code, as follows:

Sec. 107.052. New heading: POST-PLACEMENT ADOPTIVE SOCIAL STUDY AND REPORT. (a) Requires a post-placement adoptive social study to be conducted and a report filed with the court before the court is authorized to render a final order in a proceeding in which such a study is required by Section 107.0519, rather than Section 107.0511. Makes conforming changes.

(b) Makes conforming changes.

SECTION 5. Amends Section 107.056, Family Code, to require the court that orders a social study to be conducted, rather than a study to be conducted and a report to be prepared, to award the agency or other person a reasonable fee for the preparation of the study that is required to be imposed in the form of a money judgment, rather than to be taxed as costs, and paid directly to the agency or other person. Authorizes the person or agency to enforce the judgment, rather than order, for the fee by any means available under law for civil judgments.

SECTION 6. Amends Section 162.003, Family Code, to make conforming changes.

SECTION 7. Amends Section 203.004(a), Family Code, to authorize a domestic relations office to provide an informal forum in which alternative dispute resolution is used to resolve disputes under the Family Code, rather than using mediation to resolve disputes in an action under this code or an agreed repayment schedule for delinquent child support, and to provide parenting coordinator services under Chapter 153 (Conservatorship, Possession, and Access).

SECTION 8. Amends Section 203.005(a), Family Code, to include a reasonable fee for parenting coordinator services and a reasonable fee for alternative dispute resolution services among other fees that the administering entity is authorized to authorize a domestic relations office to assess and collect.

SECTION 9. Amends Sections 203.007(a) and (b), Family Code, as follows:

(a) Authorizes a domestic relations office to obtain certain records that relate to a person who has been designated as a conservator of a child, rather than a possessory or managing conservator of a child, who has court-ordered possession of a child, or has filed suit to adopt a child.

(b) Includes a person's criminal history record information among records that a domestic relations office is entitled to obtain from the Department of Public Safety.

SECTION 10. Amends Section 411.1285(a), Government Code, to entitle a domestic relations office to obtain criminal history record information from DPS that relates to a person who is a party to a proceeding in which the domestic relations office is providing services permitted under Chapter 203, Family Code, rather than that the office has been appointed guardian ad litem for a child or has been ordered to conduct a social study.

SECTION 11. Provides that an individual who has completed at least 10 social studies ordered by a court in suits affecting the parent-child relationship on or before the effective date of this Act is not required to comply with the supervision requirements imposed by Section 107.0511(d)(1)(B), to be qualified to conduct a social study under Subchapter D (Social Study), Chapter 107, Family Code, as amended by this Act, notwithstanding Section 107.0511(d)(1)(B).

SECTION 12. Makes application of this Act prospective.

SECTION 13. Effective date: September 1, 2007.