

By: Cook

H.B. No. 3072

A BILL TO BE ENTITLED

AN ACT

relating to the determination of the best interest of a child in certain suits affecting the parent-child relationship.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 153.002, Family Code, is amended to read as follows:

Sec. 153.002. BEST INTEREST OF CHILD. (a) The best interest of the child shall always be the primary consideration of the court in determining the issues of conservatorship and possession of and access to the child.

(b) In a suit between a parent and a non-parent, it is a rebuttable presumption that:

(1) a parent acts in the best interest of the parent's child; and

(2) it is in the best interest of a child to be in the care, custody and control of a parent.

SECTION 2. Section 156.101, Family Code, is amended by adding a new Subsection (c) to read as follows:

(c) In a suit to which this chapter applies between a parent and a nonparent, the presumption in Section 153.002(b) applies unless the presumption has been overcome in the most recent final order regarding the child who is the subject of the suit. The presumption shall be deemed to have been overcome as to a given parent if, in a prior proceeding and with respect to a child who is

1 the subject of the suit:

2 (1) the order sought to be modified expressly stated  
3 that the presumption was overcome on the issue currently before the  
4 court;

5 (2) the parent was neither named as nor continued as a  
6 managing conservator in the most recent final order and the parent  
7 is not being named as a managing conservator in the final order in  
8 the current case before the court; or

9 (3) the order sought to be modified resulted from the  
10 parent's voluntary relinquishment of actual care, custody,  
11 control, and possession of the child to a nonparent.

12 SECTION 3. The changes in law made by this Act apply to an  
13 action that is pending on or filed on or after the effective date of  
14 this Act.

15 SECTION 4. This Act takes effect September 1, 2023.