

By: Talarico

H.B. No. 3754

A BILL TO BE ENTITLED

AN ACT

relating to a suit for dissolution of a marriage and associated suit affecting the parent-child relationship when a party is pregnant.

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

SECTION 1. Section 6.406, Family Code, is amended by adding Subsection (c) to read as follows:

(c) If a party to a suit for dissolution of a marriage discloses to the court that a party is pregnant, the suit must include a suit affecting the parent-child relationship regarding the unborn child under Title 5.

SECTION 2. Subchapter H, Chapter 6, Family Code, is amended by adding Section 6.713 to read as follows:

Sec. 6.713. FINAL DECREE WHEN PARTY IS PREGNANT; SEVERING OF RELATED MATTERS. (a) A court may not deny or delay rendering a decree of dissolution of marriage solely because a party to the suit is pregnant.

(b) If a party to the suit is known by the court to be pregnant, the court may, on a showing of good cause, sever:

(1) a suit affecting the parent-child relationship joined under Section 6.406; or

(2) a claim or other matter related to division of the marital estate.

(c) If a court severs a suit, claim, or other matter under Subsection (b), the court:

1 (1) shall render, as applicable, orders for injunctive
2 or other relief the court considers necessary to protect, until
3 final adjudication of the matter severed:

4 (A) the parties to the suit for dissolution of
5 the marriage;

6 (B) a child or unborn child subject to a suit
7 affecting the parent-child relationship that has been severed; and

8 (C) the marital estate;

9 (2) may not waive or consider waived any unadjudicated
10 claim:

11 (A) pending at the time the matter is severed; or

12 (B) that may arise after the court renders a
13 decree for dissolution of the marriage; and

14 (3) may not require any additional fees in relation to
15 the matter severed.

16 (d) A decree of dissolution of marriage rendered while a
17 party to the suit is pregnant does not affect proceedings in a suit
18 affecting the parent-child relationship regarding the unborn
19 child.

20 SECTION 3. Section 102.003(a), Family Code, is amended to
21 read as follows:

22 (a) An original suit may be filed at any time by:

23 (1) a parent of the child;

24 (2) the child through a representative authorized by
25 the court;

26 (3) a custodian or person having the right of
27 visitation with or access to the child appointed by an order of a

1 court of another state or country;

2 (4) a guardian of the person or of the estate of the
3 child;

4 (5) a governmental entity;

5 (6) the Department of Family and Protective Services;

6 (7) a licensed child placing agency;

7 (8) a man alleging himself to be the father of a child
8 filing in accordance with Chapter 160, subject to the limitations
9 of that chapter, but not otherwise;

10 (9) a person, other than a foster parent, who has had
11 actual care, control, and possession of the child for at least six
12 months ending not more than 90 days preceding the date of the filing
13 of the petition;

14 (10) a person designated as the managing conservator
15 in a revoked or unrevoked affidavit of relinquishment under Chapter
16 161 or to whom consent to adoption has been given in writing under
17 Chapter 162;

18 (11) a person with whom the child and the child's
19 guardian, managing conservator, or parent have resided for at least
20 six months ending not more than 90 days preceding the date of the
21 filing of the petition if the child's guardian, managing
22 conservator, or parent is deceased at the time of the filing of the
23 petition;

24 (12) a person who is the foster parent of a child
25 placed by the Department of Family and Protective Services in the
26 person's home for at least 12 months ending not more than 90 days
27 preceding the date of the filing of the petition;

1 (13) a person who is a relative of the child within the
2 third degree by consanguinity, as determined by Chapter 573,
3 Government Code, if the child's parents are deceased at the time of
4 the filing of the petition;

5 (14) a person who has been named as a prospective
6 adoptive parent of a child by a pregnant woman or the parent of the
7 child, in a verified written statement to confer standing executed
8 under Section 102.0035, regardless of whether the child has been
9 born; ~~or~~

10 (15) subject to Subsection (d), a person who is an
11 intended parent of a child or unborn child under a gestational
12 agreement that complies with the requirements of Section 160.754;
13 or

14 (16) a person who is a party to a suit for dissolution
15 of marriage under Chapter 6 in which one of the parties to the suit
16 is pregnant.

17 SECTION 4. Section 102.008, Family Code, is amended by
18 amending Subsection (b) and adding Subsection (b-1) to read as
19 follows:

20 (b) The petition must include:

21 (1) a statement that:

22 (A) the court in which the petition is filed has
23 continuing, exclusive jurisdiction or that no court has continuing
24 jurisdiction of the suit; or

25 (B) in a suit in which adoption of a child is
26 requested, the court in which the petition is filed has
27 jurisdiction of the suit under Section 103.001(b);

1 (2) the name and date of birth of the child, except
2 that:

3 (A) if adoption of a child is requested, the name
4 of the child may be omitted; and

5 (B) if the suit is filed under Section
6 102.003(a)(16), the petition must state that the child has not been
7 born and the expected date of birth of the child;

8 (3) the full name of the petitioner and the
9 petitioner's relationship to the child or the fact that no
10 relationship exists;

11 (4) the names of the parents, except in a suit in which
12 adoption is requested;

13 (5) the name of the managing conservator, if any, or
14 the child's custodian, if any, appointed by order of a court of
15 another state or country;

16 (6) the names of the guardians of the person and estate
17 of the child, if any;

18 (7) the names of possessory conservators or other
19 persons, if any, having possession of or access to the child under
20 an order of the court;

21 (8) the name of an alleged father of the child or a
22 statement that the identity of the father of the child is unknown;

23 (9) a full description and statement of value of all
24 property owned or possessed by the child;

25 (10) a statement describing what action the court is
26 requested to take concerning the child and the statutory grounds on
27 which the request is made;

1 (11) a statement as to whether, in regard to a party to
2 the suit or a child of a party to the suit:

3 (A) there is in effect:

4 (i) a protective order under Title 4;

5 (ii) a protective order under Subchapter A,
6 Chapter 7B, Code of Criminal Procedure; or

7 (iii) an order for emergency protection
8 under Article 17.292, Code of Criminal Procedure; or

9 (B) an application for an order described by
10 Paragraph (A) is pending; and

11 (12) any other information required by this title.

12 (b-1) A petition to which Subsection (b)(2)(B) applies must
13 be amended as soon as practicable after the date of the child's
14 birth to state the name and date of birth of the child.

15 SECTION 5. The changes in law made by this Act apply to a
16 suit for dissolution of a marriage or a suit affecting the
17 parent-child relationship that is filed on or after the effective
18 date of this Act. A suit for dissolution of a marriage or a suit
19 affecting the parent-child relationship filed before the effective
20 date of this Act is governed by the law in effect on the date the
21 suit was filed, and the former law is continued in effect for that
22 purpose.

23 SECTION 6. This Act takes effect September 1, 2023.