

By: Campos

H.B. No. 4855

A BILL TO BE ENTITLED

AN ACT

relating to certain procedures in suits affecting the parent-child relationship filed by the Department of Family and Protective Services.

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

SECTION 1. Section 161.101, Family Code, is amended by adding Subsections (c), (d), and (e) to read as follows:

(c) The Department of Family and Protective Services may not file a petition for the termination of the parent-child relationship unless:

(1) the child has been in the temporary managing conservatorship of the department for at least 15 of the previous 22 months;

(2) the child is under two years of age and the court has previously determined that the child was abandoned; or

(3) the department petition alleges aggravated circumstances under Section 262.2015 against the parent.

(d) Notwithstanding Subsection (c), the Department of Family and Protective Services may not file a petition for the termination of the parent-child relationship if:

(1) the child is being cared for by a relative;

(2) the department finds a compelling reason why termination of the parent-child relationship is not in the child's best interests and documents that reason in the family service

1 plan;

2 (3) the court made a finding during the preceding 12  
3 months that the department failed to make reasonable efforts to  
4 reunite the child and family; or

5 (4) the parent is incarcerated, or the parent's  
6 previous incarceration is a significant factor in the duration of  
7 the department's conservatorship of the child, and the parent  
8 maintains a meaningful role in the child's life, and the department  
9 has not documented another reason why it would otherwise be  
10 appropriate to terminate parental rights.

11 (e) The assessment of whether a parent maintains a  
12 meaningful role in the child's life for purposes of Subsection  
13 (d)(4) may include consideration of:

14 (1) the child's best interests;

15 (2) the parent's concern for the child, demonstrated  
16 in letters, telephone calls, visits, and other forms of  
17 communication and the impact of the communication with the child;

18 (3) the parent's efforts to:

19 (A) communicate with and work with the department  
20 for the purpose of complying with the family service plan; and

21 (B) repair, maintain, or build the parent-child  
22 relationship;

23 (4) limitations on the parent's access to family  
24 support programs, therapeutic services, visiting opportunities,  
25 and telephone and mail services; and

26 (5) limitations on the parent's ability to  
27 meaningfully participate in court proceedings.

1 SECTION 2. The heading to Section 263.401, Family Code, is  
2 amended to read as follows:

3 Sec. 263.401. DISMISSAL AFTER TWO YEARS [~~ONE YEAR~~]; NEW  
4 TRIALS; EXTENSION.

5 SECTION 3. Sections 263.401(a) and (b), Family Code, are  
6 amended to read as follows:

7 (a) Unless the court has commenced the trial on the merits  
8 or granted an extension under Subsection (b) or (b-1), on the first  
9 Monday after the second [~~first~~] anniversary of the date the court  
10 rendered a temporary order appointing the department as temporary  
11 managing conservator, the court's jurisdiction over the suit  
12 affecting the parent-child relationship filed by the department  
13 that requests termination of the parent-child relationship or  
14 requests that the department be named conservator of the child is  
15 terminated and all pleadings filed by a party are [~~the suit is~~]  
16 automatically dismissed without a court order. Not later than the  
17 60th day before the day the suit and all pleadings belonging to a  
18 party are [~~is~~] automatically dismissed, the court shall notify all  
19 parties to the suit of the automatic dismissal date.

20 (b) Unless the court has commenced the trial on the merits,  
21 the court may not retain the suit on the court's docket after the  
22 time described by Subsection (a) unless a parent files a motion to  
23 extend time or a motion pursuant to Section 263.403 and the court  
24 finds that extraordinary circumstances necessitate the child  
25 remaining in the temporary managing conservatorship of the  
26 department and that continuing the appointment of the department as  
27 temporary managing conservator is in the best interest of the

1 child. If the court makes those findings, the court may retain the  
2 suit on the court's docket for a period not to exceed 180 days after  
3 the time described by Subsection (a). If the court retains the suit  
4 on the court's docket, the court shall render an order in which the  
5 court:

6 (1) schedules the new date on which the suit will be  
7 automatically dismissed if the trial on the merits has not  
8 commenced, which date must be not later than the 180th day after the  
9 time described by Subsection (a);

10 (2) makes further temporary orders for the safety and  
11 welfare of the child as necessary to avoid further delay in  
12 resolving the suit; and

13 (3) sets the trial on the merits on a date not later  
14 than the date specified under Subdivision (1).

15 SECTION 4. The changes in law made by this Act apply to a  
16 suit affecting the parent-child relationship that is pending in a  
17 trial court on the effective date of this Act or that is filed on or  
18 after the effective date of this Act.

19 SECTION 5. This Act takes effect September 1, 2023.