

BILL ANALYSIS

C.S.H.B. 1869
By: Baxter
Human Services
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Currently, the Family Code places a specific duty of reporting on professionals who believe that a child has been abused or neglected, or the victim of an offense and the professional has cause to believe that the child has been abused. A “professional” is an individual who is licensed or certified by the state or who is an employee of a facility licensed, certified and operated by the state and who, in the normal course of official duties or duties for which a license or certification is required, has direct contact with children. The term also is specifically defined to include: teachers, nurses, doctors, juvenile probation officers and juvenile detention or correction officers. Professionals are frequent reporters of abuse and neglect, and their testimony in proceedings brought for the protection of a child are many times of critical importance. Texas Department of Protective and Regulatory Services often requires the testimony of professionals concerning reported abuse or neglect. Because of the time and expense required for a doctor or other professionals to appear in court, this often places an undue burden on the professional, and could, in fact, discourage professionals from reporting abuse, or evading subpoenas to testify in court proceeding. Moreover, this issue has become even more apparent with the mandatory dismissal deadline under section 263.401 of the Family Code that restricts the flexibility to reschedule trials to accommodate the schedules of professionals who have a difficult time scheduling appearances for a lengthy proceeding until they are called to testify. CSHB 1869 would authorize the testimony of professionals to be received by video means to help ensure the appearance of professionals during the trials and other significant hearings involving a child.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, department, institution, or agency.

ANALYSIS

CSHB 1869 amends the Family Code to authorize the court to order that the testimony of a professional to be taken outside the courtroom by videoconference in a proceeding brought by the Texas Department of Protective and Regulatory Services concerning a child who is alleged in a suit to have been abused or neglected. The bill provides that in ordering testimony to be taken by videotape, the court is required to ensure that the videoconference testimony allows the parties and attorneys involved in the proceeding to be able to see and hear each other as the professional testifies and the professional to be able to see and hear the parties and attorneys examining the professional while the professional is testifying. The bill prohibits the professional from being compelled to be physically present in court during the same proceeding to provide the same testimony, if the court permits the testimony of the professional that is videotaped to be admitted during the proceeding. The bill provides that the change in law made by this Act applies to testimony take on or before the effective date of this Act in a proceeding in a suit affecting the parent-child relationship involving an allegation of abuse or neglect of a child regardless of whether the allegation was made before, on, or after the effective date of this Act, or the suit commenced before, on, or after the effective date of this Act.

EFFECTIVE DATE

September 1, 2003.

COMPARISON OF ORIGINAL TO SUBSTITUTE

CSHB 1869 varies from the original by authorizing the court, in a proceeding brought by the Department of Protective and Regulatory Services concerning a child who is alleged in a suit to have been abuse or neglected, to order that the testimony of a professional be taken outside of the courtroom by videoconference, rather than by recorded videotape.