

BILL ANALYSIS

C.S.H.B. 2159

By: Nixon

Juvenile Justice & Family Issues
Committee Report (Substituted)

BACKGROUND AND PURPOSE

During the 78th Regular Legislative Session, the Texas House of Representatives and the Texas Senate unanimously passed H.B.1899 which added provisions to the Texas Family Code related to the prevention of international parental child abduction. H.B.1899 added provisions to the Family Code related to the prevention of international parental child abduction. The new Subchapter, I, Sections 153.501-503, advocates the best interests of the child by providing a statutory basis to ensure courts determine the risk of abduction in certain cases, and order preventive measures based on that risk if the court deems it necessary.

Once the bill was enacted into law, a Texas state-appointed commissioner to the National Conference of Commissioners on Uniform State Laws (NCCUSL), presented this landmark Texas legislation to the NCCUSL in July 2003 for their consideration in creating a model act for other states to implement in their legislatures. After close study, it was approved in January 2004 as a model act. Additionally, a public meeting was held in Chicago in April 2004 to discuss the drafting of the model act. During those discussions, the NCCUSL committee in charge of drafting the model act, and the Drafting Committee on Standards for the Protection of Children from International Abduction (the “Committee”), pointed out that there was a need for the legislation to include language that addresses many states’ provisions that allow children at a certain age to choose which parent they want to live with.

In cases involving prevention of international parental child abduction, children remained vulnerable to manipulation by the potential abductor parent to choose to live with that potential abductor parent. The Committee recognized that it was inappropriate to allow children at risk for international parental child abduction to be placed in that perilous position and that those children needed further protection.

House Bill 2159 provides that needed protection by providing that a court may not consider a child’s preference in a suit in which one or more abduction risk factors are present, or one or more abduction prevention measures have been taken.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

SECTION 1. Amends Subchapter A, Chapter 153 of the Family Code by adding Section 153.0045 which provides that in a suit, it is a rebuttable presumption that it is not in the best interest of a child for a parent of the child to have unsupervised visitation with the child if one or more abduction risk factors described by Section 153.502 are present.

SECTION 2. Amends Section 153.008 of the Family Code by inserting subsection (a) to provide that except for subsection (b) this section does not apply in a suit in which one or more abduction risk factors described by Section 153.502 are present, or one or more abduction prevention measures described by 153.503 have been taken.

- SECTION 3.** Amends Section 153.134 of the Family Code by amending Subsection (a) and adding Subsection (c) to provide that the court may not consider the child's preference under Subsection (a)(6) in a suit in which one or more abduction risk factors described by Section 153.502 are present, or one or more abduction prevention measures described by 153.503 have been taken.
- SECTION 4.** Amends Section 156.101 of the Family Code inserts Subsection(a) and provides that the court may not consider a child's preference under Subsection (a)(2) in a suit in which one or more abduction risk factors described by Section 153.502 are present or one or more abduction prevention measures described by 153.503 have been taken.
- SECTION 5.** The changes in law made by this Act apply to a suit affecting the parent-child relationship or suit for modification pending in a trial court on the effective date of this Act or filed on or after the effective date of this Act.
- SECTION 6.** This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2005.

EFFECTIVE DATE

September 1, 2005

COMPARISON OF ORIGINAL TO SUBSTITUTE

C.S.H.B.2159 modifies the original H.B.2159 by adding Section 153.0045 to include language that provides that it in a suit, it is a rebuttable presumption that it is not in the best interest of the child for a parent to have unsupervised visitation with the child in a suit in which one or more of the abduction risk factors described by Section 153.502 are present. This clause is an addition to the existing reasons delineated in Section 153.004(e) of the Family Code, where unsupervised visitation is not appropriate.