

By: Bonnen, et al.

H.B. No. 657

A BILL TO BE ENTITLED

AN ACT

relating to terminating the parent-child relationship of a parent convicted of certain crimes.

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

SECTION 1. This Act may be called the Donna Hoedt Act.

SECTION 2. Section 161.001, Family Code, is amended to read as follows:

Sec. 161.001. INVOLUNTARY TERMINATION OF PARENT-CHILD RELATIONSHIP. The court may order termination of the parent-child relationship if the court finds by clear and convincing evidence:

(1) that the parent has:

(A) voluntarily left the child alone or in the possession of another not the parent and expressed an intent not to return;

(B) voluntarily left the child alone or in the possession of another not the parent without expressing an intent to return, without providing for the adequate support of the child, and remained away for a period of at least three months;

(C) voluntarily left the child alone or in the possession of another without providing adequate support of the child and remained away for a period of at least six months;

(D) knowingly placed or knowingly allowed the child to remain in conditions or surroundings which endanger the physical or emotional well-being of the child;

1 (E) engaged in conduct or knowingly placed the
2 child with persons who engaged in conduct which endangers the
3 physical or emotional well-being of the child;

4 (F) failed to support the child in accordance
5 with the parent's ability during a period of one year ending within
6 six months of the date of the filing of the petition;

7 (G) abandoned the child without identifying the
8 child or furnishing means of identification, and the child's
9 identity cannot be ascertained by the exercise of reasonable
10 diligence;

11 (H) voluntarily, and with knowledge of the
12 pregnancy, abandoned the mother of the child beginning at a time
13 during her pregnancy with the child and continuing through the
14 birth, failed to provide adequate support or medical care for the
15 mother during the period of abandonment before the birth of the
16 child, and remained apart from the child or failed to support the
17 child since the birth;

18 (I) contumaciously refused to submit to a
19 reasonable and lawful order of a court under Subchapter D, Chapter
20 261;

21 (J) been the major cause of:

22 (i) the failure of the child to be enrolled
23 in school as required by the Education Code; or

24 (ii) the child's absence from the child's
25 home without the consent of the parents or guardian for a
26 substantial length of time or without the intent to return;

27 (K) executed before or after the suit is filed an

1 unrevoked or irrevocable affidavit of relinquishment of parental
2 rights as provided by this chapter;

3 (L) been convicted or has been placed on
4 community supervision, including deferred adjudication community
5 supervision, for being criminally responsible for the death or
6 serious injury of a child under the following sections of the Penal
7 Code or adjudicated under Title 3 for conduct that caused the death
8 or serious injury of a child and that would constitute a violation
9 of one of the following Penal Code sections:

10 (i) Section 19.02 (murder);
11 (ii) Section 19.03 (capital murder);
12 (iii) Section 19.04 (manslaughter);
13 (iv) Section 21.11 (indecent with a
14 child);

15 (v) Section 22.01 (assault);
16 (vi) Section 22.011 (sexual assault);
17 (vii) Section 22.02 (aggravated assault);
18 (viii) Section 22.021 (aggravated sexual
19 assault);

20 (ix) Section 22.04 (injury to a child,
21 elderly individual, or disabled individual);

22 (x) Section 22.041 (abandoning or
23 endangering child);

24 (xi) Section 25.02 (prohibited sexual
25 conduct);

26 (xii) Section 43.25 (sexual performance by
27 a child); and

(xiii) Section 43.26 (possession or promotion of child pornography);

(M) had his or her parent-child relationship terminated with respect to another child based on a finding that the parent's conduct was in violation of Paragraph (D) or (E) or substantially equivalent provisions of the law of another state;

(N) constructively abandoned the child who has been in the permanent or temporary managing conservatorship of the Department of Family and Protective ~~[and Regulatory]~~ Services or an authorized agency for not less than six months, and:

(i) the department or authorized agency has made reasonable efforts to return the child to the parent;

(ii) the parent has not regularly visited or maintained significant contact with the child; and

(iii) the parent has demonstrated an inability to provide the child with a safe environment;

(O) failed to comply with the provisions of a court order that specifically established the actions necessary for the parent to obtain the return of the child who has been in the permanent or temporary managing conservatorship of the Department of Family and Protective ~~[and Regulatory]~~ Services for not less than nine months as a result of the child's removal from the parent under Chapter 262 for the abuse or neglect of the child;

(P) used a controlled substance, as defined by Chapter 481, Health and Safety Code, in a manner that endangered the health or safety of the child, and:

(i) failed to complete a court-ordered

1 substance abuse treatment program; or

2 (ii) after completion of a court-ordered
3 substance abuse treatment program, continued to abuse a controlled
4 substance;

5 (Q) knowingly engaged in criminal conduct that
6 has resulted in the parent's:

7 (i) conviction of an offense; and

8 (ii) confinement or imprisonment and
9 inability to care for the child for not less than two years from the
10 date of filing the petition;

11 (R) been the cause of the child being born
12 addicted to alcohol or a controlled substance, other than a
13 controlled substance legally obtained by prescription, as defined
14 by Section 261.001; ~~or~~

15 (S) voluntarily delivered the child to a
16 designated emergency infant care provider under Section 262.302
17 without expressing an intent to return for the child; or

18 (T) been convicted of the murder of the other
19 parent of the child under Section 19.02 or 19.03, Penal Code, or
20 under a law of another state, federal law, the law of a foreign
21 country, or the Uniform Code of Military Justice that contains
22 elements that are substantially similar to the elements of an
23 offense under Section 19.02 or 19.03, Penal Code; and

24 (2) that termination is in the best interest of the
25 child.

26 SECTION 3. The change in law made by this Act applies only
27 to a suit affecting the parent-child relationship filed on or after

1 the effective date of this Act. A suit affecting the parent-child
2 relationship filed before the effective date of this Act is
3 governed by the law in effect on the date the suit was filed, and the
4 former law is continued in effect for that purpose.

5 SECTION 4. This Act takes effect September 1, 2005.