

BILL ANALYSIS

C.S.H.B. 772
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Juvenile Justice & Family Issues
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Due to past changes in other Texas statutes, there are currently no definitions regarding minimum qualifications for private providers or procedures for conducting social study evaluations in divorce or child custody modification cases.

It is critical for Texas children and their families that social study evaluations are conducted by qualified persons who can be held accountable to professional standards and protect the best interests of children.

C.S.H.B.772 provides definitions and standardizes language so that professionals that conduct these social studies are clear about education, licensing and experience requirements. Many social studies are conducted by staff in private adoption agencies, County Domestic Relations Offices and the Department of Family and Protective Services. All of these agencies have in-house requirements for education, experience, abilities and the elements of the social study in order to assure the courts that the social studies they produce are valid and protect the best interest of children.

Additionally, there are no minimum standards regarding professional education, experience, licensing or ethical considerations for private sector providers. A judge who may need a social study to make decisions about custody, possession and access or adoption needs to be assured that the provider is in fact qualified to perform the study and act with the best interest of the children in mind. These proposed guidelines assist the Judiciary in making these determinations. These guidelines are also helpful to attorneys so that they may best advise their clients.

C.S.H.B.772 is similar to these guidelines and encourages the use of professionals in the field that are bound by their own professional guidelines and licensing standards and those of the Texas Family Code.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 3, Section 107.0511(c) and Section 107.052(b) of the Family Code.

ANALYSIS

SECTION 1. Subchapter D, Chapter 107 of the Family Code is amended by adding Section 107.0501 which defines "social study" as an evaluative process through which information and recommendations regarding adoption of a child, conservatorship of a child, or possession of or access to a child may be made to a court, the parties, and the parties' attorneys. However, the term does not include services provided in accordance with the Interstate Compact on Placement of Children. Additionally, defines "social study evaluator" as an individual who conducts a social study under this subchapter.

SECTION 2. Amends Section 107.051 of the Family Code by providing that a court can order a social study of a child who is the subject of a suit or a party to a suit, and of the home of any person requesting conservatorship of or access to a child. The social study may also be conducted by a domestic

relations office. An individual who conducts a social study must be qualified under Section 107.511 of the Family Code.

SECTION 3.

Subchapter D, Chapter 107 of the Family Code is amended by amending Section 107.0511 and adding Sections 107.0512, 107.0513, 107.0514, 107.0515, and 107.0519 to provide that to be qualified to perform social studies an individual must have a minimum of a bachelors degree from an accredited college or university in a human services field of study and a license to practice in this state as a social worker, professional counselor, marriage and family therapist, or psychologist and, have two years full-time experience or equivalent part-time experience under professional supervision during which the individual performed functions involving the evaluation of physical, intellectual, social, and psychological functioning and needs and the potential of the social and physical environment.

These minimum qualifications do not apply to an individual conducting a social study in counties with a population of less than 500,000 in connection with an adoption governed by the rules required by Section 107.0519, to preserve the ability of judges and attorneys in rural counties to make other arrangements if resources do not exist to fulfill the needs of the court, nor do they apply to an individual of a licensed child-placing agencies, a county domestic relations office, or the Department of Family and Protective Services.

The rules for adoption of social studies, must include minimum education and experience requirements for persons performing social studies.

Additionally, this bill states that a provider with a conflict of interest or bias must decline to conduct the social study or disclose any issue or concern to the Court before accepting the appointment or assignment.

This bill defines the minimum requirements of the elements of a written social study including personal interviews with each party to the suit, in a developmentally appropriate manner, observation of the children, obtaining relevant information from collateral sources, evaluating the home environment, evaluating criminal histories and child protective service records, assessing relationship of children and each party seeking possession or access, interviewing and observation of children with each parent, interviewing all individuals residing in the home, and in highly conflicted custody cases, it is often helpful to the judge to appoint a professional to conduct a social study of the family in order that the judge has in-depth information in order to make a decision about custody, possession and access or adoption.

SECTION 4.

Amends Section 107.052 of the Family Code to provide that in any proceeding in which a pre-adoptive social study is required by Section 107.0519 for an adoption, a post-placement adoptive social study must be conducted and a report filed with the court before the court renders a final order. The social study must also comply with the minimum requirements for the study under rules adopted by the executive commissioner of the Health and Human Services Commission.

SECTION 5.

Amends Section 107.056 of the Family Code by providing that the court must award the agency or person conducting the social study a reasonable fee, imposed in the form of a money judgment.

SECTION 6.

Amends Section 162.003 of the Family Code by providing that pre-adoptive and post-placement social studies must be conducted as provided in Chapter 107.

SECTION 7.

Notwithstanding Section 107.0511(d)(1)(B), Family Code, as added by this Act, an individual who on or before the effective date of this Act completed at least 10 social studies ordered by a court in suits affecting the parent-child relationship is not required to comply with the supervision

requirements imposed by that paragraph to be qualified to conduct a social study under Subchapter D, Chapter 107, Family Code, as amended by this Act.

SECTION 8. The changes in law made by this Act to Subchapter D, Chapter 107, Family Code, and Section 162.003, Family Code, apply to a suit affecting the parent-child relationship that is filed on or after the effective date of this Act is governed by the law in effect on the date the suit is filed, and the former law is continued in effect for that purpose.

SECTION 9. This Act takes effect September 1, 2007.

EFFECTIVE DATE

September 1, 2007

COMPARISON OF ORIGINAL TO SUBSTITUTE

C.S.H.B.772 modifies the original H.B.772 by including a provision that provides that services provided in accordance with the Interstate Compact on the Placement of Children adopted under Subchapter B, or an evaluation conducted in accordance with Section 262.114 by an employee of or contractor with the Department of Family and Protective Services are not applicable to social studies. Also provides that minimum requirements are not applicable to a suit pending in a county with a population of less than 500,000 in connection with an adoption under Section 107.0519(a), or to an employee or other authorized representative of a licensed child-placing agency or the Department of Family and Protective Services. Also lowered the qualifications from a master's to a bachelor's degree.