

BILL ANALYSIS

Senate Research Center
80R6266 KKA-D

H.B. 1993
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Jurisprudence
5/17/2007
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Current law requires a court to render a final order in a suit affecting the parent-child relationship within one year from the time that the Department of Family and Protective Services (DFPS) was appointed as the temporary managing conservator of the child. This means that the trial must have commenced and concluded by way of a final order or the lawsuit must be dismissed. This statutory limitation is not in the best interest of children because a lawsuit may have actually commenced well within the one-year time limitation, however, due to various circumstances, a final order has not been rendered within that time period.

H.B. 1993 requires a court to dismiss a suit affecting the parent-child relationship within one year from the time that DFPS was appointed as the temporary managing conservator unless a trial on the merits has commenced.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Sections 263.401(a), (b), and (c), Family Code, as follows:

(a) Requires a court, unless the court has commenced the trial on the merits, rather than rendered a final order, or granted an extension under Subsection (b), on the first Monday after the first anniversary of the date the court rendered a temporary order appointing the Department of Family Protective Services (DFPS) as temporary managing conservator, to dismiss the suit affecting the parent-child relationship filed by DFPS that requests termination of the parent-child relationship or requests that DFPS be named conservator of the child.

(b) Prohibits a court, unless the court has commenced the trial on the merits, from retaining the suit on the court's docket after the time described by Subsection (a) unless the court finds that extraordinary circumstances necessitate the child remaining in the temporary managing conservatorship of DFPS and that continuing the appointment of DFPS as temporary managing conservator is in the best interest of the child. Requires the court, if the court retains the suit on the court's docket, to render an order in which the court schedules the new date on which the suit will be dismissed if the trial on the merits has not commenced, rather than for dismissal of the suit, which date must be not later than the 180th day after the time described by Subsection (a), makes further temporary orders for the safety and welfare of the child as necessary to avoid further delay in resolving the suit, and sets the trial on the merits, rather than the final hearing, on a date not later than the date specified under Subdivision (1), rather than that allows the court to render a final order before the required date for dismissal of the suit under this subsection.

(c) Requires the court, if the court grants an extension but does not commence the trial on the merits, rather than render a final order or dismiss the suit, before the required date for dismissal under Subsection (b), to dismiss the suit.

SECTION 2. Amends Section 263.402(b), Family Code, as follows;

(b) Deletes existing text providing that a party to a suit who fails to make a motion requesting the court to render a final order before the deadline for dismissal waives the right to object to the court's failure to dismiss the suit. Provides that a motion to dismiss under this subsection is timely if the motion is made before the trial on the merits commences, rather than before DFPS has introduced all of DFPS's evidence, other than rebuttal evidence, at the trial on the merits.

SECTION 3. Amends Sections 263.403(b) and (c), Family Code, to make conforming changes.

SECTION 4. Repealer: Section 263.401(d) (relating to a final order regarding conservatorship of a child), Family Code.

SECTION 5. Makes application of this Act prospective.

SECTION 6. Effective date: September 1, 2007.