

## **BILL ANALYSIS**

H.B. 1993  
By: Gattis  
Juvenile Justice & Family Issues  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Chapter 263 of the Family Code, pertains to the placement of children under the care of the Department of Family and Protective Services. This chapter, in part, requires that, in a lawsuit involving the adjudication of the parent-child relationship, the court must render a final order within one year from the time that the department was appointed as the temporary managing conservator of the child. Essentially, this means that the trial must have commenced and concluded by way of a final order or the lawsuit must be dismissed.

This statutory time 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. The circumstances delaying completion within a year may involve the need for additional investigation by the department, the locating of witnesses, the determination of paternity, the availability of experts, or legitimate requests for continuances granted by the court.

H.B.1993 changes the time limitation by requiring that the trial on the merits must have commenced within one year. This change in time limitation not only protects the child, but ensures the protection of parental rights.

### **RULEMAKING AUTHORITY**

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

### **ANALYSIS**

Amends Sections 263.401(a), (b), and (c) of the Family Code, by providing that unless the court has commenced the trial on the merits 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 as temporary managing conservator, the court shall dismiss the suit affecting the parent-child relationship filed by the department that requests termination of the parent-child relationship or requests that the department be named conservator of the child.

Unless the court has commenced the trial on the merits, the court may not retain 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 the department and that continuing the appointment of the department as temporary managing conservator is in the best interest of the child. If the court makes those findings, the court may retain the suit on the court's docket for a period not to exceed 180 days after the time described by Subsection (a).

If the court retains the suit on the court's docket, the court shall 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, which date must be not later than the 180th day after the time described by Subsection (a), or sets the trial on the merits on a date not later than the date specified under Subdivision (1).

If the court grants an extension but does not commence the trial on the merits before the required date for dismissal under Subsection (b), the court shall dismiss the suit. The court may not grant

Amends Section 263.402(b) of the Family Code, by providing that a party to a suit under this chapter who fails to make a timely motion to dismiss the suit under this subchapter waives the right to object to the court's failure to dismiss the suit. A motion to dismiss under this subsection is timely if the motion is made before the trial on the merits commences.

Amends Sections 263.403(b) and (c) of the Family Code by providing that if the court renders an order under this section, the court shall schedule a new date, not later than the 180th day after the date the temporary order is rendered, for dismissal of the suit unless a trial on the merits has commenced.

If a child placed with a parent under this section must be moved from that home by the department before the dismissal of the suit or the commencement of the trial on the merits, the court shall, at the time of the move, schedule a new date for dismissal of the suit unless a trial on the merits has commenced.

Repeals Section 263.401(d) of the Family Code.

**EFFECTIVE DATE**

September 1, 2007.