

By: Dutton

H.B. No. 772

A BILL TO BE ENTITLED

AN ACT

relating to social studies conducted in certain suits affecting the parent-child relationship.

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

SECTION 1. Subchapter D, Chapter 107, Family Code, is amended by adding Section 107.0501 to read as follows:

Sec. 107.0501. DEFINITIONS. In this subchapter:

(1) "Social study" means 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. The term does not include services provided in accordance with the Interstate Compact on the Placement of Children adopted under Subchapter B, Chapter 162, or an evaluation conducted in accordance with Section 262.114 by an employee of or contractor with the Department of Family and Protective Services.

(2) "Social study evaluator" means an individual who conducts a social study under this subchapter.

SECTION 2. Section 107.051, Family Code, is amended to read as follows:

Sec. 107.051. ORDER FOR SOCIAL STUDY. (a) The court may order the preparation of a social study into the circumstances and condition of:

(1) a ~~the~~ child who is the subject of a suit or a

1 party to a suit; and

2 (2) [~~of~~] the home of any person requesting [~~managing~~]
3 conservatorship of, [~~or~~] possession of, or access to a [~~the~~] child.

4 (b) The social study may be made by a private entity, a
5 person appointed by the court, a domestic relations office, or a
6 state agency, including the Department of Family and Protective
7 [~~and Regulatory~~] Services if the department is a party to the suit.

8 (c) In a suit in which adoption is requested or
9 conservatorship of, possession of, or access to a [~~the~~] child is an
10 issue and in which a social study has been ordered and the
11 Department of Family and Protective [~~and Regulatory~~] Services is
12 not a party, the court shall appoint a private agency, [~~or~~] another
13 person, or [~~including~~] a domestic relations office[~~r~~] to conduct
14 the social study.

15 (d) Except as provided by Section 107.0511(b), each
16 individual who conducts a social study must be qualified under
17 Section 107.0511.

18 SECTION 3. Subchapter D, Chapter 107, Family Code, is
19 amended by amending Section 107.0511 and adding Sections 107.0512,
20 107.0513, 107.0514, 107.0515, and 107.0519 to read as follows:

21 Sec. 107.0511. SOCIAL STUDY EVALUATOR: MINIMUM
22 QUALIFICATIONS. (a) In this section:

23 (1) "Full-time experience" means a period during which
24 an individual works at least 30 hours per week.

25 (2) "Human services field of study" means a field of
26 study designed to prepare an individual in the disciplined
27 application of counseling, family therapy, psychology, or social

1 work values, principles, and methods.

2 (b) The minimum qualifications prescribed by this section
3 do not apply to an individual conducting a social study:

4 (1) in connection with a suit pending before a court
5 located in a county with a population of less than 500,000;

6 (2) in connection with an adoption governed by rules
7 adopted under Section 107.0519(a);

8 (3) as an employee or other authorized representative
9 of a licensed child-placing agency; or

10 (4) as an employee or other authorized representative
11 of the Department of Family and Protective Services.

12 (c) The executive commissioner of the Health and Human
13 Services Commission shall adopt rules prescribing the minimum
14 qualifications that an individual described by Subsection (b)(3) or
15 (4) must possess in order to conduct a social study under this
16 subchapter.

17 (d) To be qualified to conduct a social study under this
18 subchapter, an individual must:

19 (1) have a bachelor's degree from an accredited
20 college or university in a human services field of study and a
21 license to practice in this state as a social worker, professional
22 counselor, marriage and family therapist, or psychologist and:

23 (A) have two years of full-time experience or
24 equivalent part-time experience under professional supervision
25 during which the individual performed functions involving the
26 evaluation of physical, intellectual, social, and psychological
27 functioning and needs and the potential of the social and physical

1 environment, both present and prospective, to meet those needs; and

2 (B) have participated in the performance of at
3 least 10 court-ordered social studies under the supervision of an
4 individual qualified under this section;

5 (2) meet the requirements of Subdivision (1)(A) and be
6 practicing under the direct supervision of an individual qualified
7 under this section in order to complete at least 10 court-ordered
8 social studies under supervision; or

9 (3) be employed by a domestic relations office,
10 provided that the individual conducts social studies relating only
11 to families ordered by a court to participate in social studies
12 conducted by the office.

13 (e) If an individual meeting the requirements of this
14 section is not available in the county served by the court, the
15 court may authorize an individual determined by the court to be
16 otherwise qualified to conduct the social study.

17 (f) In addition to the qualifications prescribed by this
18 section, an individual must complete at least eight hours of family
19 violence dynamics training provided by a family violence service
20 provider to be qualified to conduct a social study under this
21 subchapter.

22 Sec. 107.0512. SOCIAL STUDY EVALUATOR: CONFLICTS OF
23 INTEREST AND BIAS. (a) A social study evaluator who has a conflict
24 of interest with any party in a disputed suit or who may be biased on
25 the basis of previous knowledge, other than knowledge obtained in a
26 court-ordered evaluation, shall:

27 (1) decline to conduct a social study for the suit; or

1 (2) disclose any issue or concern to the court before
2 accepting the appointment or assignment.

3 (b) A social study evaluator who has previously conducted a
4 social study for a suit may conduct all subsequent evaluations in
5 the suit unless the court finds that the evaluator is biased.

6 (c) This section does not prohibit a court from appointing
7 an employee of the Department of Family and Protective Services to
8 conduct a social study in a suit in which adoption is requested or
9 possession of or access to a child is an issue and in which the
10 department is a party or has an interest.

11 Sec. 107.0513. GENERAL PROVISIONS APPLICABLE TO CONDUCT OF
12 SOCIAL STUDY AND PREPARATION OF REPORT. (a) Unless otherwise
13 directed by a court or prescribed by a provision of this title, a
14 social study evaluator's actions in conducting a social study shall
15 be in conformance with the professional standard of care applicable
16 to the evaluator's licensure and any administrative rules, ethical
17 standards, or guidelines adopted by the state agency that licenses
18 the evaluator.

19 (b) In addition to the requirements prescribed by this
20 subchapter, a court may impose requirements or adopt local rules
21 applicable to a social study or a social study evaluator.

22 (c) A social study evaluator shall follow evidence-based
23 practice methods and make use of current best evidence in making
24 assessments and recommendations.

25 (d) A social study evaluator shall disclose to each attorney
26 of record any communication regarding a substantive issue between
27 the evaluator and an attorney of record representing a party in a

1 disputed suit. This subsection does not apply to a communication
2 between a social study evaluator and an attorney ad litem or amicus
3 attorney.

4 (e) To the extent possible, a social study evaluator shall
5 verify each statement of fact pertinent to a social study and shall
6 note the sources of verification and information in the report.

7 (f) A social study evaluator shall state the basis for the
8 evaluator's conclusions or recommendations in the report. A social
9 study evaluator who has evaluated only one side of a disputed case
10 shall refrain from making a recommendation regarding
11 conservatorship of a child or possession of or access to a child,
12 but may state whether the party evaluated appears to be suitable for
13 conservatorship.

14 (g) Each social study subject to this subchapter must be
15 conducted in compliance with this subchapter, regardless of whether
16 the study is conducted:

17 (1) by a single social study evaluator or multiple
18 evaluators working separately or together; or

19 (2) within a county served by the court with
20 continuing jurisdiction or at a geographically distant location.

21 (h) A social study report must include the name, license
22 number, and basis for qualification under Section 107.0511 of each
23 social study evaluator who conducted any portion of the social
24 study.

25 Sec. 107.0514. ELEMENTS OF SOCIAL STUDY. (a) The basic
26 elements of a social study under this subchapter consist of:

27 (1) a personal interview of each party to the suit;

1 (2) an interview, conducted in a developmentally
2 appropriate manner, of each child at issue in the suit who is at
3 least four years of age;

4 (3) observation of each child at issue in the suit,
5 regardless of the age of the child;

6 (4) the obtaining of information from relevant
7 collateral sources;

8 (5) evaluation of the home environment of each party
9 seeking conservatorship of a child at issue in the suit or
10 possession of or access to the child, unless the condition of the
11 home environment is identified as not being in dispute in the court
12 order requiring the social study;

13 (6) for each individual residing in a residence
14 subject to the social study, consideration of any criminal history
15 information and any contact with the Department of Family and
16 Protective Services or a law enforcement agency regarding abuse or
17 neglect; and

18 (7) assessment of the relationship between each child
19 at issue in the suit and each party seeking possession of or access
20 to the child.

21 (b) The additional elements of a social study under this
22 subchapter consist of:

23 (1) balanced interviews and observation of each child
24 at issue in the suit so that a child who is interviewed or observed
25 while in the care of one party to the suit is also interviewed or
26 observed while in the care of each other party to the suit;

27 (2) an interview of each individual residing in a

1 residence subject to the social study; and

2 (3) evaluation of the home environment of each party
3 seeking conservatorship of a child at issue in the suit or
4 possession of or access to the child, regardless of whether the home
5 environment is in dispute.

6 (c) A social study evaluator may not offer an opinion
7 regarding conservatorship of a child at issue in a suit or
8 possession of or access to the child unless each basic element of a
9 social study under Subsection (a) has been completed. A social
10 study evaluator shall identify in the report any additional element
11 of a social study under Subsection (b) that was not completed and
12 shall explain the reasons that the element was not completed.

13 Sec. 107.0515. REPORTS OF CERTAIN PLACEMENTS FOR ADOPTION.
14 A social study evaluator shall report to the Department of Family
15 and Protective Services any adoptive placement that appears to have
16 been made by someone other than a licensed child-placing agency or
17 the child's parents or managing conservator.

18 Sec. 107.0519. PRE-ADOPTIVE SOCIAL STUDY [~~HOME SCREENING~~].

19 (a) This section does not apply to a suit brought by a licensed
20 child-placing agency or the Department of Family and Protective
21 Services. The procedures required in a suit brought by a licensed
22 child-placing agency or the Department of Family and Protective
23 Services are governed by rules adopted by the executive
24 commissioner of the Health and Human Services Commission, including
25 rules adopted under Chapter 42, Human Resources Code [~~In this~~
26 section, "department" means the Department of Protective and
27 Regulatory Services].

1 (b) A pre-adoptive social study [~~home screening~~] shall be
2 conducted as provided by this section to evaluate each party in a
3 proceeding described by Subsection (c) who requests termination of
4 the parent-child relationship or an adoption.

5 (c) The social study [~~Except for a suit brought by a~~
6 ~~licensed child-placing agency or the department, the home~~
7 ~~screening~~] under this section shall be filed in any suit for:

8 (1) termination of the parent-child relationship in
9 which a person other than a parent may be appointed managing
10 conservator of a child; or

11 (2) an adoption.

12 (d) The social study [~~Other than in a suit in which a~~
13 ~~licensed child-placing agency or the department is appointed~~
14 ~~managing conservator of the child, the home screening~~] under this
15 section must be filed with the court before the court may sign the
16 final order for termination of the parent-child relationship.

17 (e) The costs of a social study [~~home screening~~] in a suit
18 for adoption under this section shall be paid by the prospective
19 adoptive parent.

20 (f) Unless otherwise agreed to by the court, the social
21 study [~~home screening~~] under this section must comply with the
22 minimum requirements for the study [~~screening~~] under rules adopted
23 by the executive commissioner of the Health and Human Services
24 Commission [~~Board of Protective and Regulatory Services~~].

25 (g) In a suit filed after the child begins residence in the
26 prospective adoptive home [~~stepparent adoption~~], the pre-adoptive
27 social study [~~home screening~~] under this section and the

1 post-placement adoptive social study [~~report~~] under Section
2 107.052 may be combined in a single report. Under this subsection,
3 the pre-adoptive social study will be completed after the child is
4 placed in the home.

5 SECTION 4. Section 107.052, Family Code, is amended to read
6 as follows:

7 Sec. 107.052. POST-PLACEMENT ADOPTIVE SOCIAL STUDY AND
8 REPORT. (a) In a proceeding in which a pre-adoptive social study
9 [~~home screening~~] is required by Section 107.0519 [~~107.0511~~] for an
10 adoption, a post-placement adoptive social study [~~report~~] must be
11 conducted and a report filed with the court before the court may
12 render a final order in the adoption.

13 (b) Unless otherwise agreed to by the court, the
14 post-placement adoptive social study [~~report~~] must comply with the
15 minimum requirements for the study [~~report~~] under rules adopted by
16 the executive commissioner of the Health and Human Services
17 Commission [~~Board of Protective and Regulatory Services~~].

18 SECTION 5. Section 107.056, Family Code, is amended to read
19 as follows:

20 Sec. 107.056. PREPARATION FEE. If the court orders a social
21 study to be conducted [~~and a report to be prepared~~], the court shall
22 award the agency or other person a reasonable fee for the
23 preparation of the study that shall be imposed in the form of a
24 money judgment [~~taxed as costs~~] and paid directly to the agency or
25 other person. The person or agency may enforce the judgment [~~order~~]
26 for the fee by any means available under law for civil judgments.

27 SECTION 6. Section 162.003, Family Code, is amended to read

1 as follows:

2 Sec. 162.003. PRE-ADOPTIVE ~~[HOME SCREENING]~~ AND
3 POST-PLACEMENT SOCIAL STUDIES ~~[REPORT]~~. In a suit for adoption,
4 ~~[a]~~ pre-adoptive ~~[home screening]~~ and post-placement social
5 studies ~~[report]~~ must be conducted as provided in Chapter 107.

6 SECTION 7. Notwithstanding Section 107.0511(d)(1)(B),
7 Family Code, as added by this Act, an individual who on or before
8 the effective date of this Act completed at least 10 social studies
9 ordered by a court in suits affecting the parent-child relationship
10 is not required to comply with the supervision requirements imposed
11 by that paragraph to be qualified to conduct a social study under
12 Subchapter D, Chapter 107, Family Code, as amended by this Act.

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

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