

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.

(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 party to a suit; and

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

(b) The social study may be made by a private entity, a

1 person appointed by the court, a domestic relations office, or a
2 state agency, including the Department of Family and Protective
3 ~~[and Regulatory]~~ Services if the department is a party to the suit.

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

11 (d) Notwithstanding any other provision of this section,
12 each individual who conducts a social study must be qualified under
13 Section 107.0511.

14 SECTION 3. Subchapter D, Chapter 107, Family Code, is
15 amended by amending Section 107.0511 and adding Sections 107.0512,
16 107.0513, 107.0514, 107.0515, and 107.0519 to read as follows:

17 Sec. 107.0511. SOCIAL STUDY EVALUATOR: MINIMUM
18 QUALIFICATIONS. (a) In this section:

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

21 (2) "Human services field of study" means a field of
22 study designed to prepare an individual in the disciplined
23 application of counseling, family therapy, psychology, or social
24 work values, principles, and methods.

25 (b) To be qualified to conduct a social study under this
26 subchapter, an individual must:

27 (1) have a master's or doctoral degree from an

1 accredited college or university in a human services field of study
2 and a license to practice in this state as a social worker,
3 professional counselor, marriage and family therapist, or
4 psychologist:

5 (A) have two years of full-time experience or
6 equivalent part-time experience under professional supervision
7 during which the individual performed functions involving the
8 evaluation of physical, intellectual, social, and psychological
9 functioning and needs and the potential of the social and physical
10 environment, both present and prospective, to meet those needs; and

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

14 (2) be employed by a licensed child-placing agency,
15 provided that the individual conducts social studies relating only
16 to the agency's clients and children the agency has legal authority
17 to place; or

18 (3) be employed by a domestic relations office,
19 provided that the individual conducts social studies relating only
20 to families ordered by a court to participate in social studies
21 conducted by the office.

22 (c) If an individual meeting the requirements of this
23 section is not available in the county served by the court, the
24 court may authorize an individual determined by the court to be
25 otherwise qualified to conduct the social study.

26 (d) An individual employed by the Department of Family and
27 Protective Services who meets the requirements of this section may

1 conduct a court-ordered social study as required by the Interstate
2 Compact on the Placement of Children adopted under Subchapter B,
3 Chapter 162.

4 (e) In addition to the qualifications prescribed by this
5 section, an individual must complete at least eight hours of family
6 violence dynamics training provided by a family violence service
7 provider to be qualified to conduct a social study under this
8 subchapter.

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

- 14 (1) decline to conduct a social study for the suit; or
15 (2) disclose any issue or concern to the court before
16 accepting the appointment or assignment.

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

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

25 Sec. 107.0513. GENERAL PROVISIONS APPLICABLE TO CONDUCT OF
26 SOCIAL STUDY AND PREPARATION OF REPORT. (a) Unless otherwise
27 directed by a court or prescribed by a provision of this title, a

1 social study evaluator's actions in conducting a social study are
2 governed by the professional guidelines adopted by any professional
3 organization relevant to the evaluator, including the American
4 Professional Society on the Abuse of Children, the American
5 Psychological Association, the Association of Family and
6 Conciliation Courts, and the National Association of Social
7 Workers.

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

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

14 (d) A social study evaluator shall disclose to each attorney
15 of record any communication regarding a substantive issue between
16 the evaluator and an attorney of record representing a party in a
17 disputed suit. This subsection does not apply to a communication
18 between a social study evaluator and an attorney ad litem or amicus
19 attorney.

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

23 (f) A social study evaluator shall state the basis for the
24 evaluator's conclusions or recommendations in the report. A social
25 study evaluator who has evaluated only one side of a disputed case
26 shall refrain from making a recommendation regarding
27 conservatorship of a child or possession of or access to a child,

1 but may state whether the party evaluated appears to be suitable for
2 conservatorship.

3 (g) Each social study must be conducted in compliance with
4 this subchapter, regardless of whether the study is conducted:

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

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

9 (h) A social study report must include the name and basis
10 for qualification under Section 107.0511 of each social study
11 evaluator who conducted any portion of the social study.

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

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

15 (2) an interview, conducted in a developmentally
16 appropriate manner, of each child at issue in the suit who is at
17 least three years of age;

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

20 (4) the obtaining of information from relevant
21 collateral sources;

22 (5) inspection of the home environment of each party
23 seeking conservatorship of a child at issue in the suit or
24 possession of or access to the child, unless the condition of the
25 home environment is identified as not being in dispute in the court
26 order requiring the social study;

27 (6) for each individual residing in a residence

1 subject to the social study, consideration of any criminal history
2 information and any contact with the Department of Family and
3 Protective Services or a law enforcement agency regarding abuse or
4 neglect; and

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

8 (b) The additional elements of a social study under this
9 subchapter consist of:

10 (1) balanced interviews and observation of each child
11 at issue in the suit so that a child who is interviewed or observed
12 while in the care of one party to the suit is also interviewed or
13 observed while in the care of each other party to the suit;

14 (2) an interview of each individual residing in a
15 residence subject to the social study; and

16 (3) inspection of the home environment of each party
17 seeking conservatorship of a child at issue in the suit or
18 possession of or access to the child, regardless of whether the home
19 environment is in dispute.

20 (c) A social study evaluator may not offer an opinion
21 regarding conservatorship of a child at issue in a suit or
22 possession of or access to the child unless each basic element of a
23 social study under Subsection (a) has been completed. A social
24 study evaluator shall identify in the report any additional element
25 of a social study under Subsection (b) that was not completed and
26 shall explain the reasons that the element was not completed.

27 Sec. 107.0515. REPORTS OF CERTAIN PLACEMENTS FOR ADOPTION.

1 A social study evaluator shall report to the Department of Family
2 and Protective Services any adoptive placement that appears to have
3 been made by someone other than a licensed child-placing agency or
4 the child's parents or managing conservator.

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

6 (a) In this section, "department" means the Department of Family
7 and Protective [~~and Regulatory~~] Services.

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

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

15 (1) termination of the parent-child relationship in
16 which a person other than a parent may be appointed managing
17 conservator of a child; or

18 (2) an adoption.

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

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

27 (f) Unless otherwise agreed to by the court, the social

1 study [~~home screening~~] under this section must comply with the
2 minimum requirements for the study [~~screening~~] under rules adopted
3 by the executive commissioner of the Health and Human Services
4 Commission [~~Board of Protective and Regulatory Services~~].

5 (g) In a suit filed after the child begins residence in the
6 prospective adoptive home [~~stepparent adoption~~], the pre-adoptive
7 social study [~~home screening~~] under this section and the
8 post-placement adoptive social study [~~report~~] under Section
9 107.052 may be combined in a single report. Under this subsection,
10 the pre-adoptive social study will be completed after the child is
11 placed in the home.

12 (h) Subsection (g) does not apply to the placement of a
13 child in a prospective adoptive home by a licensed child-placing
14 agency. In that circumstance, a pre-adoptive social study must be
15 completed before the child is placed in the prospective adoptive
16 home, and a post-placement adoptive social study must be completed
17 after placement in accordance with Section 107.052.

18 SECTION 4. Section 107.052, Family Code, is amended to read
19 as follows:

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

26 (b) Unless otherwise agreed to by the court, the
27 post-placement adoptive social study [~~report~~] must comply with the

1 minimum requirements for the study [~~report~~] under rules adopted by
2 the executive commissioner of the Health and Human Services
3 Commission [~~Board of Protective and Regulatory Services~~].

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

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

13 SECTION 6. Section 162.003, Family Code, is amended to read
14 as follows:

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

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

26 SECTION 8. The changes in law made by this Act to Subchapter
27 D, Chapter 107, Family Code, and Section 162.003, Family Code,

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

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