

1-1 By: Dutton (Senate Sponsor - Harris) H.B. No. 772
1-2 (In the Senate - Received from the House May 1, 2007;
1-3 May 2, 2007, read first time and referred to Committee on
1-4 Jurisprudence; May 18, 2007, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 5, Nays 0;
1-6 May 18, 2007, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 772 By: Harris

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to suits affecting the parent-child relationship,
1-11 including the powers and duties of domestic relations offices and
1-12 the conducting of social studies.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 SECTION 1. Subchapter D, Chapter 107, Family Code, is
1-15 amended by adding Section 107.0501 to read as follows:

1-16 Sec. 107.0501. DEFINITIONS. In this subchapter:

1-17 (1) "Social study" means an evaluative process through
1-18 which information and recommendations regarding adoption of a
1-19 child, conservatorship of a child, or possession of or access to a
1-20 child may be made to a court, the parties, and the parties'
1-21 attorneys. The term does not include services provided in
1-22 accordance with the Interstate Compact on the Placement of
1-23 Children adopted under Subchapter B, Chapter 162, or an evaluation
1-24 conducted in accordance with Section 262.114 by an employee of or
1-25 contractor with the Department of Family and Protective Services.

1-26 (2) "Social study evaluator" means an individual who
1-27 conducts a social study under this subchapter.

1-28 SECTION 2. Section 107.051, Family Code, is amended to read
1-29 as follows:

1-30 Sec. 107.051. ORDER FOR SOCIAL STUDY. (a) The court may
1-31 order the preparation of a social study into the circumstances and
1-32 condition of:

1-33 (1) a ~~the~~ child who is the subject of a suit or a
1-34 party to a suit; and

1-35 (2) ~~of~~ the home of any person requesting ~~managing~~
1-36 conservatorship of, ~~or~~ possession of, or access to a ~~the~~ child.

1-37 (b) The social study may be made by a private entity, a
1-38 person appointed by the court, a domestic relations office, or a
1-39 state agency, including the Department of Family and Protective
1-40 ~~and Regulatory~~ Services if the department is a party to the suit.

1-41 (c) In a suit in which adoption is requested or
1-42 conservatorship of, possession of, or access to a ~~the~~ child is an
1-43 issue and in which a social study has been ordered and the
1-44 Department of Family and Protective ~~and Regulatory~~ Services is
1-45 not a party, the court shall appoint a private agency, ~~or~~ another
1-46 person, or ~~including~~ a domestic relations office ~~7~~ to conduct
1-47 the social study.

1-48 (d) Except as provided by Section 107.0511(b), each
1-49 individual who conducts a social study must be qualified under
1-50 Section 107.0511.

1-51 SECTION 3. Subchapter D, Chapter 107, Family Code, is
1-52 amended by amending Section 107.0511 and adding Sections 107.0512,
1-53 107.0513, 107.0514, 107.0515, and 107.0519 to read as follows:

1-54 Sec. 107.0511. SOCIAL STUDY EVALUATOR: MINIMUM
1-55 QUALIFICATIONS. (a) In this section:

1-56 (1) "Full-time experience" means a period during which
1-57 an individual works at least 30 hours per week.

1-58 (2) "Human services field of study" means a field of
1-59 study designed to prepare an individual in the disciplined
1-60 application of counseling, family therapy, psychology, or social
1-61 work values, principles, and methods.

1-62 (b) The minimum qualifications prescribed by this section
1-63 do not apply to an individual conducting a social study:

2-1 (1) in connection with a suit pending before a court
 2-2 located in a county with a population of less than 500,000;

2-3 (2) in connection with an adoption governed by rules
 2-4 adopted under Section 107.0519(a);

2-5 (3) as an employee or other authorized representative
 2-6 of a licensed child-placing agency; or

2-7 (4) as an employee or other authorized representative
 2-8 of the Department of Family and Protective Services.

2-9 (c) The executive commissioner of the Health and Human
 2-10 Services Commission shall adopt rules prescribing the minimum
 2-11 qualifications that an individual described by Subsection (b)(3) or
 2-12 (4) must possess in order to conduct a social study under this
 2-13 subchapter.

2-14 (d) To be qualified to conduct a social study under this
 2-15 subchapter, an individual must:

2-16 (1) have a bachelor's degree from an accredited
 2-17 college or university in a human services field of study and a
 2-18 license to practice in this state as a social worker, professional
 2-19 counselor, marriage and family therapist, or psychologist and:

2-20 (A) have two years of full-time experience or
 2-21 equivalent part-time experience under professional supervision
 2-22 during which the individual performed functions involving the
 2-23 evaluation of physical, intellectual, social, and psychological
 2-24 functioning and needs and the potential of the social and physical
 2-25 environment, both present and prospective, to meet those needs; and

2-26 (B) have participated in the performance of at
 2-27 least 10 court-ordered social studies under the supervision of an
 2-28 individual qualified under this section;

2-29 (2) meet the requirements of Subdivision (1)(A) and be
 2-30 practicing under the direct supervision of an individual qualified
 2-31 under this section in order to complete at least 10 court-ordered
 2-32 social studies under supervision; or

2-33 (3) be employed by a domestic relations office,
 2-34 provided that the individual conducts social studies relating only
 2-35 to families ordered by a court to participate in social studies
 2-36 conducted by the office.

2-37 (e) If an individual meeting the requirements of this
 2-38 section is not available in the county served by the court, the
 2-39 court may authorize an individual determined by the court to be
 2-40 otherwise qualified to conduct the social study.

2-41 (f) In addition to the qualifications prescribed by this
 2-42 section, an individual must complete at least eight hours of family
 2-43 violence dynamics training provided by a family violence service
 2-44 provider to be qualified to conduct a social study under this
 2-45 subchapter.

2-46 Sec. 107.0512. SOCIAL STUDY EVALUATOR: CONFLICTS OF
 2-47 INTEREST AND BIAS. (a) A social study evaluator who has a conflict
 2-48 of interest with any party in a disputed suit or who may be biased on
 2-49 the basis of previous knowledge, other than knowledge obtained in a
 2-50 court-ordered evaluation, shall:

2-51 (1) decline to conduct a social study for the suit; or
 2-52 (2) disclose any issue or concern to the court before
 2-53 accepting the appointment or assignment.

2-54 (b) A social study evaluator who has previously conducted a
 2-55 social study for a suit may conduct all subsequent evaluations in
 2-56 the suit unless the court finds that the evaluator is biased.

2-57 (c) This section does not prohibit a court from appointing
 2-58 an employee of the Department of Family and Protective Services to
 2-59 conduct a social study in a suit in which adoption is requested or
 2-60 possession of or access to a child is an issue and in which the
 2-61 department is a party or has an interest.

2-62 Sec. 107.0513. GENERAL PROVISIONS APPLICABLE TO CONDUCT OF
 2-63 SOCIAL STUDY AND PREPARATION OF REPORT. (a) Unless otherwise
 2-64 directed by a court or prescribed by a provision of this title, a
 2-65 social study evaluator's actions in conducting a social study shall
 2-66 be in conformance with the professional standard of care applicable
 2-67 to the evaluator's licensure and any administrative rules, ethical
 2-68 standards, or guidelines adopted by the state agency that licenses
 2-69 the evaluator.

3-1 (b) In addition to the requirements prescribed by this
 3-2 subchapter, a court may impose requirements or adopt local rules
 3-3 applicable to a social study or a social study evaluator.

3-4 (c) A social study evaluator shall follow evidence-based
 3-5 practice methods and make use of current best evidence in making
 3-6 assessments and recommendations.

3-7 (d) A social study evaluator shall disclose to each attorney
 3-8 of record any communication regarding a substantive issue between
 3-9 the evaluator and an attorney of record representing a party in a
 3-10 disputed suit. This subsection does not apply to a communication
 3-11 between a social study evaluator and an attorney ad litem or amicus
 3-12 attorney.

3-13 (e) To the extent possible, a social study evaluator shall
 3-14 verify each statement of fact pertinent to a social study and shall
 3-15 note the sources of verification and information in the report.

3-16 (f) A social study evaluator shall state the basis for the
 3-17 evaluator's conclusions or recommendations in the report. A social
 3-18 study evaluator who has evaluated only one side of a disputed case
 3-19 shall refrain from making a recommendation regarding
 3-20 conservatorship of a child or possession of or access to a child,
 3-21 but may state whether the party evaluated appears to be suitable for
 3-22 conservatorship.

3-23 (g) Each social study subject to this subchapter must be
 3-24 conducted in compliance with this subchapter, regardless of whether
 3-25 the study is conducted:

3-26 (1) by a single social study evaluator or multiple
 3-27 evaluators working separately or together; or

3-28 (2) within a county served by the court with
 3-29 continuing jurisdiction or at a geographically distant location.

3-30 (h) A social study report must include the name, license
 3-31 number, and basis for qualification under Section 107.0511 of each
 3-32 social study evaluator who conducted any portion of the social
 3-33 study.

3-34 Sec. 107.0514. ELEMENTS OF SOCIAL STUDY. (a) The basic
 3-35 elements of a social study under this subchapter consist of:

3-36 (1) a personal interview of each party to the suit;

3-37 (2) an interview, conducted in a developmentally
 3-38 appropriate manner, of each child at issue in the suit who is at
 3-39 least four years of age;

3-40 (3) observation of each child at issue in the suit,
 3-41 regardless of the age of the child;

3-42 (4) the obtaining of information from relevant
 3-43 collateral sources;

3-44 (5) evaluation of the home environment of each party
 3-45 seeking conservatorship of a child at issue in the suit or
 3-46 possession of or access to the child, unless the condition of the
 3-47 home environment is identified as not being in dispute in the court
 3-48 order requiring the social study;

3-49 (6) for each individual residing in a residence
 3-50 subject to the social study, consideration of any criminal history
 3-51 information and any contact with the Department of Family and
 3-52 Protective Services or a law enforcement agency regarding abuse or
 3-53 neglect; and

3-54 (7) assessment of the relationship between each child
 3-55 at issue in the suit and each party seeking possession of or access
 3-56 to the child.

3-57 (b) The additional elements of a social study under this
 3-58 subchapter consist of:

3-59 (1) balanced interviews and observation of each child
 3-60 at issue in the suit so that a child who is interviewed or observed
 3-61 while in the care of one party to the suit is also interviewed or
 3-62 observed while in the care of each other party to the suit;

3-63 (2) an interview of each individual residing in a
 3-64 residence subject to the social study; and

3-65 (3) evaluation of the home environment of each party
 3-66 seeking conservatorship of a child at issue in the suit or
 3-67 possession of or access to the child, regardless of whether the home
 3-68 environment is in dispute.

3-69 (c) A social study evaluator may not offer an opinion

4-1 regarding conservatorship of a child at issue in a suit or
 4-2 possession of or access to the child unless each basic element of a
 4-3 social study under Subsection (a) has been completed. A social
 4-4 study evaluator shall identify in the report any additional element
 4-5 of a social study under Subsection (b) that was not completed and
 4-6 shall explain the reasons that the element was not completed.

4-7 Sec. 107.0515. REPORTS OF CERTAIN PLACEMENTS FOR ADOPTION.

4-8 A social study evaluator shall report to the Department of Family
 4-9 and Protective Services any adoptive placement that appears to have
 4-10 been made by someone other than a licensed child-placing agency or
 4-11 the child's parents or managing conservator.

4-12 Sec. 107.0519. PRE-ADOPTIVE SOCIAL STUDY [HOME SCREENING].

4-13 (a) This section does not apply to a study prepared by a licensed
 4-14 child-placing agency or the Department of Family and Protective
 4-15 Services. The procedures required in relation to a study prepared
 4-16 by a licensed child-placing agency or the Department of Family and
 4-17 Protective Services are governed by rules adopted by the executive
 4-18 commissioner of the Health and Human Services Commission, including
 4-19 rules adopted under Chapter 42, Human Resources Code [In this
 4-20 section, "department" means the Department of Protective and
 4-21 Regulatory Services].

4-22 (b) A pre-adoptive social study [~~home screening~~] shall be
 4-23 conducted as provided by this section to evaluate each party in a
 4-24 proceeding described by Subsection (c) who requests termination of
 4-25 the parent-child relationship or an adoption.

4-26 (c) ~~The social study [Except for a suit brought by a~~
 4-27 ~~licensed child-placing agency or the department, the home~~
 4-28 ~~screening] under this section shall be filed in any suit for:~~

4-29 (1) termination of the parent-child relationship in
 4-30 which a person other than a parent may be appointed managing
 4-31 conservator of a child; or

4-32 (2) an adoption.

4-33 (d) ~~The social study [Other than in a suit in which a~~
 4-34 ~~licensed child-placing agency or the department is appointed~~
 4-35 ~~managing conservator of the child, the home screening] under this~~
 4-36 ~~section must be filed with the court before the court may sign the~~
 4-37 ~~final order for termination of the parent-child relationship.~~

4-38 (e) The costs of a social study [~~home screening~~] in a suit
 4-39 for adoption under this section shall be paid by the prospective
 4-40 adoptive parent.

4-41 (f) Unless otherwise agreed to by the court, the social
 4-42 study [~~home screening~~] under this section must comply with the
 4-43 minimum requirements for the study [~~screening~~] under rules adopted
 4-44 by the executive commissioner of the Health and Human Services
 4-45 Commission [~~Board of Protective and Regulatory Services~~].

4-46 (g) In a suit filed after the child begins residence in the
 4-47 prospective adoptive home [stepparent adoption], the pre-adoptive
 4-48 social study [home screening] under this section and the
 4-49 post-placement adoptive social study [report] under Section
 4-50 107.052 may be combined in a single report. Under this subsection,
 4-51 the pre-adoptive social study will be completed after the child is
 4-52 placed in the home.

4-53 SECTION 4. Section 107.052, Family Code, is amended to read
 4-54 as follows:

4-55 Sec. 107.052. POST-PLACEMENT ADOPTIVE SOCIAL STUDY AND
 4-56 REPORT. (a) In a proceeding in which a pre-adoptive social study
 4-57 [home screening] is required by Section 107.0519 [107.0511] for an
 4-58 adoption, a post-placement adoptive social study [report] must be
 4-59 conducted and a report filed with the court before the court may
 4-60 render a final order in the adoption.

4-61 (b) Unless otherwise agreed to by the court, the
 4-62 post-placement adoptive social study [~~report~~] must comply with the
 4-63 minimum requirements for the study [~~report~~] under rules adopted by
 4-64 the executive commissioner of the Health and Human Services
 4-65 Commission [~~Board of Protective and Regulatory Services~~].

4-66 SECTION 5. Section 107.056, Family Code, is amended to read
 4-67 as follows:

4-68 Sec. 107.056. PREPARATION FEE. If the court orders a social
 4-69 study to be conducted [and a report to be prepared], the court shall

award the agency or other person a reasonable fee for the preparation of the study that shall be imposed in the form of a money judgment [~~taxed as costs~~] and paid directly to the agency or other person. The person or agency may enforce the judgment [~~order~~] for the fee by any means available under law for civil judgments.

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

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

SECTION 7. Section 203.004(a), Family Code, is amended to read as follows:

(a) A domestic relations office may:
 (1) collect and disburse child support payments that are ordered by a court to be paid through a domestic relations registry;

(2) maintain records of payments and disbursements made under Subdivision (1);

(3) file a suit, including a suit to:

(A) establish paternity;

(B) enforce a court order for child support or for possession of and access to a child; and

(C) modify or clarify an existing child support order;

(4) provide an informal forum in which alternative dispute resolution [~~+~~

[~~(A) mediation~~] is used to resolve disputes [~~in an action~~] under this code [~~Subdivision (3); or~~

[~~(B) an agreed repayment schedule for delinquent child support is negotiated as an alternative to filing a suit to enforce a court order for child support under Subdivision (3)~~];

(5) prepare a court-ordered social study under Chapter 107;

(6) represent a child as an amicus attorney, an attorney ad litem, or a guardian ad litem in a suit in which:

(A) termination of the parent-child relationship is sought; or

(B) conservatorship of or access to a child is contested;

(7) serve as a friend of the court;

(8) provide predivorce counseling ordered by a court;

(9) provide community supervision services under Chapter 157;

(10) provide information to assist a party in understanding, complying with, or enforcing the party's duties and obligations under Subdivision (3);

(11) provide, directly or through a contract, visitation services, including supervision of court-ordered visitation, visitation exchange, or other similar services; [~~and~~]

(12) issue an administrative writ of withholding under Subchapter F, Chapter 158; and

(13) provide parenting coordinator services under Chapter 153.

SECTION 8. Section 203.005(a), Family Code, is amended to read as follows:

(a) The administering entity may authorize a domestic relations office to assess and collect:

(1) an initial operations fee not to exceed \$15 to be paid to the domestic relations office on the filing of a suit;

(2) in a county that has a child support enforcement cooperative agreement with the Title IV-D agency, an initial child support service fee not to exceed \$36 to be paid to the domestic relations office on the filing of a suit;

(3) a reasonable application fee to be paid by an applicant requesting services from the office;

(4) a reasonable attorney's fee and court costs incurred or ordered by the court;

(5) a monthly service fee not to exceed \$3 to be paid

6-1 annually in advance by a managing conservator and possessory
6-2 conservator for whom the domestic relations office provides child
6-3 support services;

6-4 (6) community supervision fees as provided by Chapter
6-5 157 if community supervision officers are employed by the domestic
6-6 relations office;

6-7 (7) a reasonable fee for preparation of a
6-8 court-ordered social study;

6-9 (8) in a county that provides visitation services
6-10 under Sections 153.014 and 203.004 a reasonable fee to be paid to
6-11 the domestic relations office at the time the visitation services
6-12 are provided; ~~and~~

6-13 (9) a fee to reimburse the domestic relations office
6-14 for a fee required to be paid under Section 158.503(d) for filing an
6-15 administrative writ of withholding;

6-16 (10) a reasonable fee for parenting coordinator
6-17 services; and

6-18 (11) a reasonable fee for alternative dispute
6-19 resolution services.

6-20 SECTION 9. Sections 203.007(a) and (b), Family Code, are
6-21 amended to read as follows:

6-22 (a) A domestic relations office may obtain the records
6-23 described by Subsections (b), (c), (d), and (e) that relate to a
6-24 person who has:

6-25 (1) been ordered to pay child support;

6-26 (2) been designated as a ~~[possessory]~~ conservator ~~[or~~
6-27 ~~managing conservator]~~ of a child;

6-28 (3) been designated to be the father of a child; ~~[or]~~

6-29 (4) executed an acknowledgment of paternity;

6-30 (5) court-ordered possession of a child; or

6-31 (6) filed suit to adopt a child.

6-32 (b) A domestic relations office is entitled to obtain from
6-33 the Department of Public Safety records that relate to:

6-34 (1) a person's date of birth;

6-35 (2) a person's most recent address;

6-36 (3) a person's current driver's license status;

6-37 (4) motor vehicle accidents involving a person; ~~and~~

6-38 (5) reported traffic-law violations of which a person
6-39 has been convicted; and

6-40 (6) a person's criminal history record information.

6-41 SECTION 10. Section 411.1285(a), Government Code, is
6-42 amended to read as follows:

6-43 (a) A domestic relations office created under Chapter 203,
6-44 Family Code, is entitled to obtain from the department criminal
6-45 history record information that relates to a person who is a party
6-46 to a proceeding in which the domestic relations office is providing
6-47 services permitted under Chapter 203, Family Code ~~[has been:~~

6-48 ~~(1) appointed guardian ad litem for a child; or~~

6-49 ~~(2) ordered to conduct a social study under~~
6-50 ~~Subchapter D, Chapter 107, Family Code].~~

6-51 SECTION 11. Notwithstanding Section 107.0511(d)(1)(B),
6-52 Family Code, as added by this Act, an individual who on or before
6-53 the effective date of this Act completed at least 10 social studies
6-54 ordered by a court in suits affecting the parent-child relationship
6-55 is not required to comply with the supervision requirements imposed
6-56 by that paragraph to be qualified to conduct a social study under
6-57 Subchapter D, Chapter 107, Family Code, as amended by this Act.

6-58 SECTION 12. The changes in law made by this Act to
6-59 Subchapter D, Chapter 107, Family Code, and Section 162.003, Family
6-60 Code, apply to a suit affecting the parent-child relationship that
6-61 is filed on or after the effective date of this Act. A suit
6-62 affecting the parent-child relationship filed before the effective
6-63 date of this Act is governed by the law in effect on the date the
6-64 suit is filed, and the former law is continued in effect for that
6-65 purpose.

6-66 SECTION 13. This Act takes effect September 1, 2007.

6-67 * * * * *