

By: Homer

H.B. No. 3525

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the divorce of parents with children under 18 years of  
3 age.

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

5 SECTION 1. Section 6.001, Family Code, is amended to read as  
6 follows:

7 Sec. 6.001. INSUPPORTABILITY. (a) A court may not grant a  
8 divorce on the grounds of insupportability if the parties to the  
9 marriage are the parents of a child under 18 years of age born or  
10 adopted during the marriage.

11 (b) On the petition of either party to a marriage, the court  
12 may grant a divorce without regard to fault if the marriage has  
13 become insupportable because of discord or conflict of  
14 personalities that destroys the legitimate ends of the marital  
15 relationship and prevents any reasonable expectation of  
16 reconciliation.

17 SECTION 2. Subchapter A, Chapter 6, Family Code, is amended  
18 by adding Section 6.0071 to read as follows:

19 Sec. 6.0071. JOINT ABANDONMENT. (a) If the parties to a  
20 marriage are the parents of a child under 18 years of age born or  
21 adopted during the marriage, the court may grant a divorce if both  
22 parties have agreed to abandon the marriage.

23 (b) The court may not grant a divorce under this section  
24 until the parties present a joint parenting plan that complies with

1 the requirements of Chapter 153, except for the requirement that  
2 the parenting plan designate a parent as the person who has the  
3 exclusive right to designate the primary residence of a child.

4 (c) The court shall presume that the school district in  
5 which the child resides on the date the petition or suit for the  
6 dissolution of marriage is filed is the place where the parents  
7 intend for the child to reside. The presumption under this  
8 subsection may be rebutted by presenting to the court:

9 (1) a written agreement between the parents; or

10 (2) clear and convincing evidence of abuse or neglect  
11 of the child by a parent.

12 (d) If the parents do not present a joint parenting plan  
13 under Subsection (a), each parent shall submit to the court a  
14 proposed parenting plan that resolves only those matters that are  
15 in disagreement. The court shall equitably decide the matters in  
16 disagreement and render an order including the agreed terms of the  
17 parenting plan. The court shall order equal times of possession of  
18 or access to a child for the parents unless the court makes the  
19 finding required by Subsection (e).

20 (e) If a parent's separate proposed parenting plan provides  
21 for one parent to exercise more time for possession of or access to  
22 a child than the other parent, and the other parent objects to the  
23 plan, the court may order unequal time for possession of or access  
24 to a child only if the court finds that clear and convincing  
25 evidence exists that the other parent has abused or neglected the  
26 child.

27 (f) In rendering a temporary order for the possession of or

1 access to a child, the court may order unequal time for possession  
2 of or access to a child over the objection of a parent only if the  
3 parent who does not object presents clear and convincing evidence  
4 that the other parent has abused or neglected the child.

5 (g) A parent should file for divorce under this section only  
6 if the parent is unable to file for divorce under any other ground.

7 (h) The court may not grant a divorce under this section if,  
8 at any time during the divorce proceeding, a parent alleges that the  
9 other parent has committed family violence.

10 (i) In this section, "abuse" and "neglect" have the meanings  
11 assigned by Section 261.001.

12 SECTION 3. This Act applies only to a suit for dissolution  
13 of a marriage filed on or after the effective date of this Act. A  
14 suit for dissolution of a marriage filed before the effective date  
15 of this Act is governed by the law in effect at the time the suit was  
16 filed, and the former law is continued in effect for that purpose.

17 SECTION 4. This Act takes effect September 1, 2007.