

BILL ANALYSIS

H.B. 322
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Judiciary & Civil Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Current law does not require a party to a suit affecting the parent-child relationship to disclose to the court knowledge of certain registered sex offenders. Often, single parents need assistance with child care and ask members of their extended families for assistance. If one of those family members is a registered sex offender, it is not appropriate for a child to be left in the care of such an individual. The noncustodial parent may not be aware of the person's sex offender status and therefore may not have the opportunity to object to the person caring for the child.

H.B. 322 requires both parties in such a suit to disclose to the court if any of their extended family members are registered sex offenders and provides a penalty for failure to disclose such information.

RULEMAKING AUTHORITY

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

ANALYSIS

H.B. 322 amends the Family Code to require, in a suit affecting the parent-child relationship, that each party who will be entitled to possession of or access to a child disclose to the court whether a member of the party's extended family is required to register as a sex offender under the sex offender registration program before a court may render an order for the possession of or access to a child. The bill requires the court to include in the order any terms the court finds necessary to protect the child's health or welfare if it is disclosed that there is a registered sex offender in the extended family of a party to the suit. The bill authorizes a court to hold in contempt of court and to punish by confinement in jail for not more than six months or by a fine of not more than \$500, or both, a person who knowingly fails to disclose to the court that a member of the person's extended family is required to register as a sex offender.

H.B. 322 makes it a material and substantial change of circumstances sufficient to justify a modification of a court order or portion of a decree that provides for the appointment of a conservator or that sets the terms and conditions of a conservatorship or for the possession of or access to a child if:

- before the order was rendered, a person entitled to the possession of or access to the child failed to disclose to the court that a member of the person's extended family is required to register as a sex offender; or
- after the date the order is rendered, a member of a party's extended family is required to register as a sex offender.

The bill prohibits a person from bringing a suit for modification of an order if the person knowingly failed to disclose to the court that a member of the person's extended family is required to register as a sex offender. The bill authorizes the court to order a person who

knowingly failed to disclose that a member of the person's extended family is required to register as a sex offender to pay the court costs and attorney's fees the other party incurred to bring a modification suit.

H.B. 322 includes a temporary provision, expiring September 1, 2010, and applicable only to a court order for possession of or access to a child rendered before September 1, 2009, that a material and substantial change of circumstances sufficient to justify a modification of a court order or portion of a decree that provides for the appointment of a conservator or that sets the terms and conditions of conservatorship or for the possession of or access to a child exists if, on the date the court rendered the order, there was a registered sex offender in the extended family of a person entitled to the possession of or access to a child. The bill provides that a suit to modify an order for the possession of or access to a child brought under this section must be filed not later than February 1, 2010.

H.B. 322 makes its provisions requiring disclosure of registered sex offenders applicable to a suit affecting the parent-child relationship that is pending in trial court on the effective date of the bill, or that is filed on or after that date. The bill makes its provisions relating to the authorization to bring a suit to modify an order for possession of or access to a child apply regardless of whether the order was rendered before, on, or after the effective date of the bill.

H.B. 322 defines "extended family."

EFFECTIVE DATE

September 1, 2009.