

BILL ANALYSIS

S.B. 491
By: West
Judiciary & Civil Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Current law provides certain remedies that a judge may order if the judge finds that there is a risk of international child abduction, and sets forth certain factors that a judge is required to consider when evaluating whether the risk of international abduction exists. However, a judge considering those risk factors is not authorized to take into consideration issues of family violence or the actions that a victim of family violence has taken in trying to implement a safety plan to escape future abuse.

As proposed, S.B. 491 requires a judge to consider whether certain activities indicating an abduction risk are related to a threat of family violence.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

ANALYSIS

SECTION 1. Amends Section 153.502, Family Code, by amending Subsection (a) and adding Subsection (a-1), as follows:

(a) Requires the court, to determine whether there is a risk of the international abduction of a child by a parent of the child, to consider evidence that the parent:

(1) has taken, enticed away, kept, withheld, or concealed a child in violation of another person's right of possession of or access to the child, unless the parent presents evidence that the parent believed in good faith that the parent's conduct was necessary to avoid imminent harm to the child or the parent;

(2) Makes no changes to this subdivision.

(3) Makes no changes to this subdivision.

(4) has recently engaged in planning activities that could facilitate the removal of the child from the United States by the parent, including applying for a passport or visa or obtaining other travel documents for the parent or the child;

(5) Makes no changes to this subdivision.

(6) Makes no changes to this subdivision.

(a-1) Requires the court to consider any evidence that the parent was engaging in planning activities under Subsection (a)(4) as a part of a safety plan to flee from family violence.

SECTION 2. Provides that the changes in law made by this Act apply to a suit affecting the parent-child relationship or suit for modification pending in a trial court on the effective date of this Act or filed on or after the effective date of this Act.

SECTION 3. Effective date: upon passage or September 1, 2009.

EFFECTIVE DATE

Upon passage or September 1, 2009.