

## **BILL ANALYSIS**

Senate Research Center  
81R27483 MCK-D

C.S.S.B. 1767  
By: Watson  
Jurisprudence  
4/23/2009  
Committee Report (Substituted)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Currently, Section 263.401, Family Code, requires that a suit be dismissed if the court has not commenced a "trial on the merits" within one year of the date that a court appointed the Department of Family and Protective Services (DFSP) as temporary managing conservator.

C.S.S.B. 1767 amends current law relating to practices and procedures in child abuse and neglect cases.

### **RULEMAKING AUTHORITY**

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

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Subchapter A, Chapter 107, Family Code, by adding Section 107.0041, as follows:

Sec. 107.0041. PROCEDURES FOR APPOINTING ATTORNEY AD LITEM. Requires the court, before appointing an attorney to serve as an attorney ad litem, to consider the ability of the attorney to handle the ad litem duties; the complexity of the case and the time required to adequately represent the child's interests; and whether the attorney, during a previous attorney ad litem appointment for the court, failed to perform the duties required by Sections 107.003 (Powers and Duties of Attorney Ad Litem for Child and Amicus Attorney) and 107.004 (Additional Duties of Attorney Ad Litem for Child).

SECTION 2. Amends Section 263.401, Family Code, by amending Subsection (c) and adding Subsection (b-1), as follows:

(b-1) Prohibits the suit from being dismissed under Subsection (a) (relating to dismissal of a suit after one year) if, after commencement of the initial trial on the merits in the time described by Subsection (a), the court grants a motion for a new trial. Requires the court, if the court retains the suit on the court's docket, to render an order in which the court:

- (1) schedules a new date, not later than the 180th day after the date the motion for new trial is granted, on which the suit will be dismissed if the new trial has not commenced;
- (2) makes further temporary orders for the safety and welfare of the child necessary to avoid further delay in resolving the suit; and
- (3) sets the trial on the merits to commence on a date not later than the date specified in Subdivision (1).

(c) Requires the court to dismiss the suit if the court grants an extension under Subsection (b) (relating to retaining a suit on the court's docket due to extraordinary circumstances) or a new trial under Subsection (b-1) but does not commence the trial on the merits before the required new date for dismissal, rather than before the required date for

dismissal under Subsection (b). Prohibits the court from granting an additional extension that extends beyond the required date for dismissal under Subsection (b) or (b-1).

SECTION 3. Amends Subtitle F, Title 2, Government Code, by adding Chapter 78, as follows:

#### CHAPTER 78. COURT DESIGN AND RENOVATION

Sec. 78.001. DEFINITION. Defines "commission."

Sec. 78.002. ACCOMMODATIONS FOR CHILDREN IN COURTS. (a) Requires the Permanent Judicial Commission for Children, Youth and Families (commission) to develop guidelines for courts to use in developing or creating a child-friendly environment in the court for children who are required to attend hearings as a part of a child abuse or neglect case.

(b) Requires the commission to notify the district or county clerk of each county of the existence of the guidelines. Requires that the commission's notice request the clerk to notify the appropriate judges of the existence of the guidelines.

(c) Requires that each newly created trial court that hears child abuse and neglect cases consider implementing the guidelines developed under Subsection (a).

(d) Provides that the guidelines developed under Subsection (a) do not affect or modify a law or rule of evidence applicable to a child's testimony in a civil or criminal child abuse or neglect court case.

SECTION 4. Requires the commission established by the supreme court to study the best practices for representation of children and parents in child abuse and neglect cases, appropriate training and education requirements for attorneys involved in child protective services cases, and the potential need for more oversight and enforcement. Provides that the study should identify specific means for improving attorney training and should specifically address substance abuse training. Requires the commission, not later than October 1, 2010, to submit a report containing suggested statutory or rule changes to the governor, the lieutenant governor, the speaker of the house of representatives, and the chair of the standing committee of each house of the legislature with the primary jurisdiction over child abuse and neglect issues.

SECTION 5. Effective date: September 1, 2009.