

1-1 By: Patrick S.B. No. 1838  
1-2 (In the Senate - Filed March 11, 2009; March 20, 2009, read  
1-3 first time and referred to Committee on Jurisprudence;  
1-4 April 14, 2009, reported favorably by the following vote: Yeas 7,  
1-5 Nays 0; April 14, 2009, sent to printer.)

1-6 A BILL TO BE ENTITLED  
1-7 AN ACT

1-8 relating to involuntary termination of parental rights based on  
1-9 attempted murder or solicitation of murder of the child's other  
1-10 parent.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Section 161.001, Family Code, is amended to read  
1-13 as follows:

1-14 Sec. 161.001. INVOLUNTARY TERMINATION OF PARENT-CHILD  
1-15 RELATIONSHIP. The court may order termination of the parent-child  
1-16 relationship if the court finds by clear and convincing evidence:

1-17 (1) that the parent has:

1-18 (A) voluntarily left the child alone or in the  
1-19 possession of another not the parent and expressed an intent not to  
1-20 return;

1-21 (B) voluntarily left the child alone or in the  
1-22 possession of another not the parent without expressing an intent  
1-23 to return, without providing for the adequate support of the child,  
1-24 and remained away for a period of at least three months;

1-25 (C) voluntarily left the child alone or in the  
1-26 possession of another without providing adequate support of the  
1-27 child and remained away for a period of at least six months;

1-28 (D) knowingly placed or knowingly allowed the  
1-29 child to remain in conditions or surroundings which endanger the  
1-30 physical or emotional well-being of the child;

1-31 (E) engaged in conduct or knowingly placed the  
1-32 child with persons who engaged in conduct which endangers the  
1-33 physical or emotional well-being of the child;

1-34 (F) failed to support the child in accordance  
1-35 with the parent's ability during a period of one year ending within  
1-36 six months of the date of the filing of the petition;

1-37 (G) abandoned the child without identifying the  
1-38 child or furnishing means of identification, and the child's  
1-39 identity cannot be ascertained by the exercise of reasonable  
1-40 diligence;

1-41 (H) voluntarily, and with knowledge of the  
1-42 pregnancy, abandoned the mother of the child beginning at a time  
1-43 during her pregnancy with the child and continuing through the  
1-44 birth, failed to provide adequate support or medical care for the  
1-45 mother during the period of abandonment before the birth of the  
1-46 child, and remained apart from the child or failed to support the  
1-47 child since the birth;

1-48 (I) contumaciously refused to submit to a  
1-49 reasonable and lawful order of a court under Subchapter D, Chapter  
1-50 261;

1-51 (J) been the major cause of:

1-52 (i) the failure of the child to be enrolled  
1-53 in school as required by the Education Code; or

1-54 (ii) the child's absence from the child's  
1-55 home without the consent of the parents or guardian for a  
1-56 substantial length of time or without the intent to return;

1-57 (K) executed before or after the suit is filed an  
1-58 unrevoked or irrevocable affidavit of relinquishment of parental  
1-59 rights as provided by this chapter;

1-60 (L) been convicted or has been placed on  
1-61 community supervision, including deferred adjudication community  
1-62 supervision, for being criminally responsible for the death or  
1-63 serious injury of a child under the following sections of the Penal  
1-64 Code or adjudicated under Title 3 for conduct that caused the death

2-1 or serious injury of a child and that would constitute a violation  
2-2 of one of the following Penal Code sections:

2-3 (i) Section 19.02 (murder);  
2-4 (ii) Section 19.03 (capital murder);  
2-5 (iii) Section 19.04 (manslaughter);  
2-6 (iv) Section 21.11 (indecent with a  
2-7 child);

2-8 (v) Section 22.01 (assault);  
2-9 (vi) Section 22.011 (sexual assault);  
2-10 (vii) Section 22.02 (aggravated assault);  
2-11 (viii) Section 22.021 (aggravated sexual  
2-12 assault);

2-13 (ix) Section 22.04 (injury to a child,  
2-14 elderly individual, or disabled individual);  
2-15 (x) Section 22.041 (abandoning or  
2-16 endangering child);

2-17 (xi) Section 25.02 (prohibited sexual  
2-18 conduct);

2-19 (xii) Section 43.25 (sexual performance by  
2-20 a child);

2-21 (xiii) Section 43.26 (possession or  
2-22 promotion of child pornography); and  
2-23 (xiv) Section 21.02 (continuous sexual  
2-24 abuse of young child or children);

2-25 (M) had his or her parent-child relationship  
2-26 terminated with respect to another child based on a finding that the  
2-27 parent's conduct was in violation of Paragraph (D) or (E) or  
2-28 substantially equivalent provisions of the law of another state;

2-29 (N) constructively abandoned the child who has  
2-30 been in the permanent or temporary managing conservatorship of the  
2-31 Department of Family and Protective Services or an authorized  
2-32 agency for not less than six months, and:

2-33 (i) the department or authorized agency has  
2-34 made reasonable efforts to return the child to the parent;

2-35 (ii) the parent has not regularly visited  
2-36 or maintained significant contact with the child; and

2-37 (iii) the parent has demonstrated an  
2-38 inability to provide the child with a safe environment;

2-39 (O) failed to comply with the provisions of a  
2-40 court order that specifically established the actions necessary for  
2-41 the parent to obtain the return of the child who has been in the  
2-42 permanent or temporary managing conservatorship of the Department  
2-43 of Family and Protective Services for not less than nine months as a  
2-44 result of the child's removal from the parent under Chapter 262 for  
2-45 the abuse or neglect of the child;

2-46 (P) used a controlled substance, as defined by  
2-47 Chapter 481, Health and Safety Code, in a manner that endangered the  
2-48 health or safety of the child, and:

2-49 (i) failed to complete a court-ordered  
2-50 substance abuse treatment program; or

2-51 (ii) after completion of a court-ordered  
2-52 substance abuse treatment program, continued to abuse a controlled  
2-53 substance;

2-54 (Q) knowingly engaged in criminal conduct that  
2-55 has resulted in the parent's:

2-56 (i) conviction of an offense; and

2-57 (ii) confinement or imprisonment and  
2-58 inability to care for the child for not less than two years from the  
2-59 date of filing the petition;

2-60 (R) been the cause of the child being born  
2-61 addicted to alcohol or a controlled substance, other than a  
2-62 controlled substance legally obtained by prescription, as defined  
2-63 by Section 261.001;

2-64 (S) voluntarily delivered the child to a  
2-65 designated emergency infant care provider under Section 262.302  
2-66 without expressing an intent to return for the child; or

2-67 (T) been convicted of:

2-68 (i) the murder of the other parent of the  
2-69 child under Section 19.02 or 19.03, Penal Code, or under a law of

3-1 another state, federal law, the law of a foreign country, or the  
3-2 Uniform Code of Military Justice that contains elements that are  
3-3 substantially similar to the elements of an offense under Section  
3-4 19.02 or 19.03, Penal Code;

3-5 (ii) criminal attempt under Section 15.01,  
3-6 Penal Code, or under a law of another state, federal law, the law of  
3-7 a foreign country, or the Uniform Code of Military Justice that  
3-8 contains elements that are substantially similar to the elements of  
3-9 an offense under Section 15.01, Penal Code, to commit the offense  
3-10 described by Subparagraph (i); or

3-11 (iii) criminal solicitation under Section  
3-12 15.03, Penal Code, or under a law of another state, federal law, the  
3-13 law of a foreign country, or the Uniform Code of Military Justice  
3-14 that contains elements that are substantially similar to the  
3-15 elements of an offense under Section 15.03, Penal Code, of the  
3-16 offense described by Subparagraph (i); and

3-17 (2) that termination is in the best interest of the  
3-18 child.

3-19 SECTION 2. The change in law made by this Act applies only  
3-20 to a suit affecting the parent-child relationship filed on or after  
3-21 the effective date of this Act. A suit affecting the parent-child  
3-22 relationship filed before the effective date of this Act is  
3-23 governed by the law in effect on the date the suit was filed, and the  
3-24 former law is continued in effect for that purpose.

3-25 SECTION 3. This Act takes effect September 1, 2009.

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