

BILL ANALYSIS

C.S.H.B. 835
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Judiciary & Civil Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Several years ago, the Family Code was amended to give certain relatives of a child up to 90 days after termination of a parent-child relationship, in a suit filed by the Department of Family and Protective Services requesting such termination, to file an action to request relief. The trial court retains plenary power over the order of termination for 30 days, and federal law requires child protective services to look for the child's relatives during the course of a case. Such a case can last, on average, between 12 and 18 months.

C.S.H.B. 835 replaces the listing of specific family relationships between the child and a person authorized to file an action with a reference to such a person's relationship to the child by consanguinity. The bill changes the deadline for filing such actions and requires a person who files that action to also demonstrate that the failure to become involved in the suit requesting termination of the parent-child relationship was not because of indifference or lack of diligence.

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

C.S.H.B. 835 amends the Family Code to specify that the exemption from the limitations on standing to file a suit affecting the parent-child relationship applies to a person related to a child within the third degree by consanguinity who otherwise has standing under state law to file suit, rather than only to an adult sibling of the child, a grandparent of the child, an aunt who is a sister of a parent of the child, or an uncle who is a brother of a parent of the child.

C.S.H.B. 835 expands the exemption to include the filing of an original suit or a suit for modification requesting adoption of the child by such persons. The bill shortens the deadline by which an original suit or suit for modification requesting managing conservatorship or adoption is required to be filed to qualify for the exemption from not later than the 90th day after the date to not later than the 30th day after the date the parent-child relationship between the child and the parent is terminated in a suit filed by the Department of Family and Protective Services (DFPS). The bill requires the person to qualify for the exemption, in addition to filing an original suit or a suit for modification requesting managing conservatorship or adoption of a child, to demonstrate that the person's failure to become involved in the suit filed by DFPS was not due to the person's indifference or lack of diligence for such an exemption to apply.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2011.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 835 differs from the original by specifying that the exemption from the limitations on standing to file a suit affecting the parent-child relationship for a person related to a child within the third degree by consanguinity applies to a person who otherwise has standing under state law to file suit, whereas the original does not include such a specification. The substitute contains a provision not included in the original requiring the person, to be eligible for the exemption, to demonstrate that the person's failure to become involved in the suit filed by the Department of Family and Protective Services was not due to the person's indifference or lack of diligence.