

## **BILL ANALYSIS**

Senate Research Center  
82R577 KSD-F

H.B. 906  
By: Thompson (Rodriguez)  
Jurisprudence  
4/18/2011  
Engrossed

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

Under current law, an indigent parent seeking to appeal a termination of parental rights order is required to reapply for indigent status before beginning the appeals process. The termination of parental rights is a serious decision that greatly affects all parties involved, and it is less detrimental to the child if an appeals case can be heard and a decision made as soon as possible.

H.B. 906 provides a mechanism for reevaluating the indigent status of a parent, stating that the indigent status of a parent continues for the remainder of the proceeding unless a material and substantial change of financial circumstance occurs. This change not only saves time but also makes the appeals process more efficient because the original court-appointed counsel is required to continue representing the client until the attorney is either relieved of duties or replaced by other counsel. Under the bill's provisions, an appeal relating to termination of a parental rights order is accelerated and given precedence over other civil cases.

H.B. 906 amends current law relating to appointments made in and the appeal of certain suits affecting the parent-child relationship.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Supreme Court of Texas in SECTION 4 (Section 263.405, Family Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 107.013, Family Code, by adding Subsection (e), as follows:

(e) Provides that a parent who the court has determined is indigent for purposes of this section is presumed to remain indigent during the pendency of the suit unless the court, after reconsideration on the motion of the parent, the attorney ad litem for the parent, or the attorney representing the governmental entity, determines that the parent is no longer indigent due to a material and substantial change in the parent's financial circumstances.

SECTION 2. Amends Part 1, Subchapter B, Chapter 107, Family Code, by adding Section 107.014, as follows:

Sec. 107.014. DURATION OF APPOINTMENT. Provides that, subject to Section 107.016 (Continued Representation), in a suit filed by a governmental entity seeking termination of the parent-child relationship or the appointment of a conservator for a child, an attorney appointed under this subchapter to serve as an attorney ad litem for the child, as an attorney in the dual role, or as an attorney ad litem for a parent shall continue to serve in that capacity until the earliest of:

- (1) the date the suit is dismissed;
- (2) the date all appeals are exhausted or waived; or

(3) the date the attorney is relieved of the attorney's duties in the suit and replaced by another attorney after a finding of good cause is rendered by the court on the record.

SECTION 3. Amends Section 109.002(a), Family Code, as follows:

(a) Requires that an appeal from a final order rendered in a suit, when allowed under this section or under other provisions of law, be as in civil cases generally under the Texas Rules of Appellate Procedure (TRAP).

SECTION 4. Amends Sections 263.405(a), (b), and (c), Family Code, as follows:

(a) Provides that an appeal of a final order rendered under this subchapter is governed by the procedures for accelerated appeals in civil cases under TRAP, rather than by rules of the Supreme Court of Texas (supreme court) for accelerated appeals in civil cases and the procedures provided by this section.

(b) Requires that a final order rendered under this subchapter contain the following prominently displayed statement in boldfaced type, in capital letters, or underlined: "A PARTY AFFECTED BY THIS ORDER HAS THE RIGHT TO APPEAL. AN APPEAL IN A SUIT IN WHICH TERMINATION OF THE PARENT-CHILD RELATIONSHIP IS SOUGHT IS GOVERNED BY THE PROCEDURES FOR ACCELERATED APPEALS IN CIVIL CASES UNDER THE TEXAS RULES OF APPELLATE PROCEDURE. FAILURE TO FOLLOW THE TEXAS RULES OF APPELLATE PROCEDURE FOR ACCELERATED APPEALS MAY RESULT IN THE DISMISSAL OF THE APPEAL."

Deletes existing text requiring a party who intends to request a new trial or appeal the order, not later than the 15th day after the date a final order is signed by the trial judge, to file with the trial court a request for a new trial or, if an appeal is sought, a statement of the point or points on which the party intends to appeal.

(c) Requires the supreme court to adopt rules accelerating the disposition by the appellate court and the supreme court of an appeal of a final order granting termination of the parent-child relationship rendered under this subchapter.

Deletes existing text providing that a motion for a new trial, a request for findings of fact and conclusions of law, or any other post-trial motion in the trial court does not extend the deadline for filing a notice of appeal under Rule 26.1(b) (relating to requiring that the notice of appeal in an accelerated appeal be filed within 20 days after the judgment or order is signed), TRAP, or the deadline for filing an affidavit of indigence under Rule 20 (When Party is Indigent), TRAP.

SECTION 5. Repealers: Sections 263.405(b-1) (relating to providing for authorizing the combination of a statement of the point or points on which a party intends to appeal with a motion for a new trial), (d) (relating to requiring the trial court to hold a hearing not later than the 30th day after the date the final order is signed), (e) (relating to requiring a party to file an affidavit of indigency), (f) (relating to the filing of the appellate record), (g) (relating to the reporter's record and the clerk's record), (h) (relating to prohibiting the appellate court from extending the time for filing a record or appellate brief except on a showing of good cause), and (i) (relating to prohibiting the appellate court from considering any issue not specifically timely presented to the trial court), Family Code.

SECTION 6. Requires the supreme court to adopt rules of appellate procedure as required by Section 263.405(c), Family Code, as amended by this Act, as soon as practicable after the effective date of this Act, but not later than March 1, 2012.

SECTION 7. Provides that Sections 107.013(e) and 107.014, Family Code, as added by this Act, apply only to a suit affecting the parent-child relationship pending in a trial court on or filed on or after the effective date of this Act.

SECTION 8. Makes application of Sections 109.002(a) and 263.405(a) and (b), Family Code, as amended by this Act, prospective.

SECTION 9. Effective date: September 1, 2011.