

BILL ANALYSIS

H.B. 906
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Judiciary & Civil Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

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 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.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Supreme Court of Texas in SECTIONS 4 and 6 of this bill.

ANALYSIS

H.B. 906 amends the Family Code, in provisions relating to a mandatory appointment of an attorney ad litem for a parent in a suit affecting the parent-child relationship filed by a governmental entity in which the termination of the parent-child relationship is requested, to establish that such a parent determined by a court to be indigent is presumed to remain indigent during the pendency of the suit. The bill creates an exception to that presumption on determination by the court, after reconsideration on the motion of the parent, the attorney ad litem for the parent, or the attorney representing the governmental entity, that the parent is no longer indigent due to a material and substantial change in the parent's financial circumstances. The bill requires an attorney who is appointed as an attorney ad litem for a child, as an attorney in the dual role, or as an attorney ad litem for a parent in a suit filed by a governmental entity seeking termination of the parent-child relationship or requesting conservatorship of a child to continue to serve in that capacity subject to an order appointing the Department of Family and Protective Services (DFPS) as the child's managing conservator that provides for continued representation of the child for any period set by the court until the earliest of the date the suit is dismissed, the date all appeals are exhausted or waived, or 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.

H.B. 906 clarifies that an appeal from a final order rendered in a suit affecting the parent-child relationship is required to be under the Texas Rules of Appellate Procedure, as in civil cases generally. The bill removes a provision establishing a filing deadline for a party who intends to request a new trial or appeal a final order and a provision specifying that a post-trial motion does not extend the filing deadlines for a notice of appeal or an affidavit of indigence under certain rules of appellate procedure.

H.B. 906 requires the Supreme Court of Texas to adopt rules as soon as practicable after the bill's effective date, but not later than March 1, 2012, 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 for a child under the care of DFPS.

H.B. 906 repeals Sections 263.405(b-1), (d), (e), (f), (g), (h), and (i), Family Code, relating to the appeal of a final order for a child under the care of DFPS.

EFFECTIVE DATE

September 1, 2011.