

# SENATE AMENDMENTS

2<sup>nd</sup> Printing

By: Thompson

H.B. No. 906

A BILL TO BE ENTITLED

AN ACT

relating to appointments made in and the appeal of certain suits affecting the parent-child relationship.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 107.013, Family Code, is amended by adding Subsection (e) to read as follows:

(e) 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. Part 1, Subchapter B, Chapter 107, Family Code, is amended by adding Section 107.014 to read as follows:

Sec. 107.014. DURATION OF APPOINTMENT. Subject to Section 107.016, 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

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

4           SECTION 3. Section 109.002(a), Family Code, is amended to  
5 read as follows:

6           (a) An appeal from a final order rendered in a suit, when  
7 allowed under this section or under other provisions of law, shall  
8 be as in civil cases generally under the Texas Rules of Appellate  
9 Procedure. An appeal in a suit in which termination of the  
10 parent-child relationship is in issue shall be given precedence  
11 over other civil cases and shall be accelerated by the appellate  
12 courts. The procedures for an accelerated appeal under the Texas  
13 Rules of Appellate Procedure apply to an appeal in which the  
14 termination of the parent-child relationship is in issue.

15           SECTION 4. Sections 263.405(a), (b), and (c), Family Code,  
16 are amended to read as follows:

17           (a) An appeal of a final order rendered under this  
18 subchapter is governed by the procedures [~~rules of the supreme~~  
19 ~~court~~] for accelerated appeals in civil cases under the Texas Rules  
20 of Appellate Procedure [~~and the procedures provided by this~~  
21 ~~section~~]. The appellate court shall render its final order or  
22 judgment with the least possible delay.

23           (b) A final order rendered under this subchapter must  
24 contain the following prominently displayed statement in boldfaced  
25 type, in capital letters, or underlined: "A PARTY AFFECTED BY THIS  
26 ORDER HAS THE RIGHT TO APPEAL. AN APPEAL IN A SUIT IN WHICH  
27 TERMINATION OF THE PARENT-CHILD RELATIONSHIP IS SOUGHT IS GOVERNED

1 BY THE PROCEDURES FOR ACCELERATED APPEALS IN CIVIL CASES UNDER THE  
2 TEXAS RULES OF APPELLATE PROCEDURE. FAILURE TO FOLLOW THE TEXAS  
3 RULES OF APPELLATE PROCEDURE FOR ACCELERATED APPEALS MAY RESULT IN  
4 THE DISMISSAL OF THE APPEAL." ~~[Not later than the 15th day after the~~  
5 ~~date a final order is signed by the trial judge, a party who intends~~  
6 ~~to request a new trial or appeal the order must file with the trial~~  
7 ~~court.~~

8 ~~[(1) a request for a new trial, or~~  
9 ~~[(2) if an appeal is sought, a statement of the point~~  
10 ~~or points on which the party intends to appeal.]~~

11 (c) The supreme court shall adopt rules accelerating the  
12 disposition by the appellate court and the supreme court of an  
13 appeal of a final order granting termination of the parent-child  
14 relationship rendered under this subchapter. ~~[A motion for a new~~  
15 ~~trial, a request for findings of fact and conclusions of law, or any~~  
16 ~~other post-trial motion in the trial court does not extend the~~  
17 ~~deadline for filing a notice of appeal under Rule 26.1(b), Texas~~  
18 ~~Rules of Appellate Procedure, or the deadline for filing an~~  
19 ~~affidavit of indigence under Rule 20, Texas Rules of Appellate~~  
20 ~~Procedure.]~~

21 SECTION 5. Sections 263.405(b-1), (d), (e), (f), (g), (h),  
22 and (i), Family Code, are repealed.

23 SECTION 6. The Supreme Court of Texas shall adopt rules of  
24 appellate procedure as required by Section 263.405(c), Family Code,  
25 as amended by this Act, as soon as practicable after the effective  
26 date of this Act, but not later than March 1, 2012.

27 SECTION 7. Sections 107.013(e) and 107.014, Family Code, as

1 added by this Act, apply only to a suit affecting the parent-child  
2 relationship pending in a trial court on or filed on or after the  
3 effective date of this Act.

4       SECTION 8. Sections 109.002(a) and 263.405(a) and (b),  
5 Family Code, as amended by this Act, apply only to a final order  
6 rendered on or after the effective date of this Act. A final order  
7 rendered before the effective date of this Act is governed by the  
8 law in effect on the date the order was rendered, and the former law  
9 is continued in effect for that purpose.

10       SECTION 9. This Act takes effect September 1, 2011.

# ADOPTED

APR 29 2011

*Leta Spaul*  
Secretary of the Senate

*José Rodríguez*

FLOOR AMENDMENT NO. 1

BY: \_\_\_\_\_

Amend H.B. No. 906 (senate committee printing) as follows:

(1) In SECTION 1 of the bill, in added Section 107.013(e), Family Code (page 1, lines 14 and 15), strike "during the pendency of the suit" and substitute "for the duration of the suit and any subsequent appeal".

(2) Strike SECTION 2 of the bill (page 1, lines 20-33), and substitute the following:

SECTION 2. Section 107.016, Family Code, is amended to read as follows:

Sec. 107.016. CONTINUED REPRESENTATION; DURATION OF APPOINTMENT. In a suit filed by a governmental entity in which termination of the parent-child relationship or appointment of the entity as conservator of the child is requested:

(1) [7] an order appointing the Department of Family and Protective ~~[and Regulatory]~~ Services as the child's managing conservator may provide for the continuation of the appointment of the guardian ad litem or attorney ad litem for the child for any period set by the court; and

(2) an attorney appointed under this subchapter to serve as an attorney ad litem for a parent or an alleged father continues to serve in that capacity until the earliest of:

(A) the date the suit affecting the parent-child relationship is dismissed;

(B) the date all appeals in relation to any final order terminating parental rights are exhausted or waived; or

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

(3) In SECTION 7 of the bill (page 2, lines 20 and 21),

1 strike "Sections 107.013(e) and 107.014, Family Code, as added by  
2 this Act," and substitute "Section 107.013(e), Family Code, as  
3 added by this Act, and Section 107.016, Family Code, as amended by  
4 this Act,".

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION**

**May 2, 2011**

**TO:** Honorable Joe Straus, Speaker of the House, House of Representatives

**FROM:** John S O'Brien, Director, Legislative Budget Board

**IN RE: HB906** by Thompson (Relating to appointments made in and the appeal of certain suits affecting the parent-child relationship.), **As Passed 2nd House**

<b>No significant fiscal implication to the State is anticipated.</b>
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The bill would amend the appellate procedure for child protection cases, and calls upon the Supreme Court to adopt rules accelerating disposition of these cases in the appellate courts. On behalf of the Court, the Office of Court Administration reports that rule revisions needed for the bill can be handled within existing resources. The Department of Family and Protective Services (DFPS) reports the change in appellate procedures will impact the legal practitioners more than the clients, and any training needs or revisions to agency forms can reasonably be handled within existing resources. Further, DFPS reports the bill is not anticipated to result in significantly increased litigation that would negatively impact permanency for children. Accordingly, no significant fiscal implication to the State is anticipated. The bill would take effect September 1, 2011.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

Under the bill, once a parent has been declared indigent by a court in a suit to terminate a parent-child relationship, the parent is presumed to remain indigent throughout the court proceedings unless the court determines otherwise. An attorney ad litem appointed in such a case shall continue to serve in that role until the suit is dismissed, all appeals have been exhausted, or when the attorney is relieved of his/her duties, whichever is earliest. Though the proposed standard meets the current practice in most areas, it may lengthen the appointment in some counties and thus may increase county-paid attorney fees.

**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council, 302 Office of the Attorney General, 530 Family and Protective Services, Department of

**LBB Staff:** JOB, TB, JT

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION**

**April 18, 2011**

**TO:** Honorable Chris Harris, Chair, Senate Committee on Jurisprudence

**FROM:** John S O'Brien, Director, Legislative Budget Board

**IN RE: HB906** by Thompson (Relating to appointments made in and the appeal of certain suits affecting the parent-child relationship.), **As Engrossed**

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**LBB Staff:** JOB, TB, JT



**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION**

**March 13, 2011**

**TO:** Honorable Jim Jackson, Chair, House Committee on Judiciary & Civil Jurisprudence

**FROM:** John S O'Brien, Director, Legislative Budget Board

**IN RE: HB906** by Thompson (Relating to appointments made in and the appeal of certain suits affecting the parent-child relationship.), **As Introduced**

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