

BILL ANALYSIS

C.S.H.B. 165
By: Flynn
Human Services
Committee Report (Substituted)

BACKGROUND AND PURPOSE

To ensure that a child placed under the supervision of the Department of Family and Protective Services has the best possible quality of life available to that child, the placement options for the child must be considered carefully. Foster parents are currently allowed to file a suit affecting the parent-child relationship only if the child has resided with them for 12 months or longer. C.S.H.B. 165 seeks to recognize the importance of the role of a child's foster parents and of the degree of emotional attachment formed by the child by reducing the length of time a child must have resided with a foster parent for the foster parent to file such a suit, except in certain cases, and by requiring the emotional stability of a child placed in foster care to be taken into consideration when making a placement decision regarding the child.

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. 165 amends the Family Code, in a provision establishing the conditions under which a person who is the foster parent of a child placed by the Department of Family and Protective Services (DFPS) in the person's home is authorized to file an original suit affecting the parent-child relationship, to specify that the foster parent is authorized to file the suit if the child has resided with the foster parent for at least six months, rather than if the child has been placed by DFPS in the foster parent's home for at least 12 months. The bill authorizes such a person to file a suit if the child has resided with the person for at least three months if the child was placed with the foster parent when the child was under two months of age. The bill establishes that a person does not have standing to file such a suit if the person is the foster parent of a child for whom DFPS's goal is reunification with the child's parent and DFPS determines, in accordance with DFPS rule, that the child's parent is making satisfactory progress on a plan to return the child to the parent's home before the first anniversary of the date the child was placed with the foster parent.

C.S.H.B. 165 requires DFPS, in determining whether to modify a foster care placement decision, to consider the length of time the child has resided with the foster care provider, the degree to which the child has formed an attachment to the foster care provider, and the potential harm to the child caused by separation from the foster care provider or by the disruption of a stable placement.

EFFECTIVE DATE

September 1, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 165 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Section 102.003(a), Family Code, is amended to read as follows:
Sec. 102.003. GENERAL STANDING TO FILE SUIT.

(a) An original suit may be filed at any time by:

- (1) a parent of the child;
- (2) the child through a representative authorized by the court;
- (3) a custodian or person having the right of visitation with or access to the child appointed by an order of a court of another state or country;
- (4) a guardian of the person or of the estate of the child;
- (5) a governmental entity;
- (6) an authorized agency;
- (7) a licensed child placing agency;
- (8) a man alleging himself to be the father of a child filing in accordance with Chapter 160, subject to the limitations of that chapter, but not otherwise;
- (9) a person, other than a foster parent, who has had actual care, control, and possession of the child for at least six months ending not more than 90 days preceding the date of the filing of the petition;
- (10) a person designated as the managing conservator in a revoked or unrevoked affidavit of relinquishment under Chapter 161 or to whom consent to adoption has been given in writing under Chapter 162;
- (11) a person with whom the child and the child's guardian, managing conservator, or parent have resided for at least six months ending not more than 90 days preceding the date of the filing of the petition if the child's guardian, managing conservator, or parent is deceased at the time of the filing of the petition;
- (12) a person who is the foster parent of a child placed by the Department of Family and Protective Services in the person's home and with whom the child has resided for at least six [~~12~~] months, or for at least

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 102.003, Family Code, is amended by amending Subsection (a) and adding Subsection (d) to read as follows:

(a) An original suit may be filed at any time by:

- (1) a parent of the child;
- (2) the child through a representative authorized by the court;
- (3) a custodian or person having the right of visitation with or access to the child appointed by an order of a court of another state or country;
- (4) a guardian of the person or of the estate of the child;
- (5) a governmental entity;
- (6) an authorized agency;
- (7) a licensed child placing agency;
- (8) a man alleging himself to be the father of a child filing in accordance with Chapter 160, subject to the limitations of that chapter, but not otherwise;
- (9) a person, other than a foster parent, who has had actual care, control, and possession of the child for at least six months ending not more than 90 days preceding the date of the filing of the petition;
- (10) a person designated as the managing conservator in a revoked or unrevoked affidavit of relinquishment under Chapter 161 or to whom consent to adoption has been given in writing under Chapter 162;
- (11) a person with whom the child and the child's guardian, managing conservator, or parent have resided for at least six months ending not more than 90 days preceding the date of the filing of the petition if the child's guardian, managing conservator, or parent is deceased at the time of the filing of the petition;
- (12) a person who is the foster parent of a child placed by the Department of Family and Protective Services in the person's home and with whom the child has resided for at least six [~~12~~] months, or for at least three

three months if the child was placed with the foster parent when the child was under two months of age, ending not more than 90 days preceding the date of the filing of the petition;

(13) a person who is a relative of the child within the third degree by consanguinity, as determined by Chapter 573, Government Code, if the child's parents are deceased at the time of the filing of the petition; or

(14) a person who has been named as a prospective adoptive parent of a child by a pregnant woman or the parent of the child, in a verified written statement to confer standing executed under Section 102.0035, regardless of whether the child has been born.

months if the child was placed with the foster parent when the child was under two months of age, ending not more than 90 days preceding the date of the filing of the petition;

(13) a person who is a relative of the child within the third degree by consanguinity, as determined by Chapter 573, Government Code, if the child's parents are deceased at the time of the filing of the petition; or

(14) a person who has been named as a prospective adoptive parent of a child by a pregnant woman or the parent of the child, in a verified written statement to confer standing executed under Section 102.0035, regardless of whether the child has been born.

(d) Subsection (a)(12) does not apply to a person who is the foster parent of a child for whom the Department of Family and Protective Services' goal is reunification with the child's parent and the department determines, in accordance with department rules, that the child's parent is making satisfactory progress on a plan to return the child to the parent's home before the first anniversary of the date the child was placed with the foster parent.

SECTION 2. Subchapter B, Chapter 264, Family Code, is amended.

SECTION 2. Same as introduced version.

SECTION 3. This Act takes effect September 1, 2013.

SECTION 3. Same as introduced version.