

BILL ANALYSIS

C.S.H.B. 1661
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Judiciary & Civil Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Under current law, evaluations of children and adults for purposes of child custody determinations and adoptions are addressed in the same provisions, even though the processes are often different depending on the purpose of the evaluation. Interested parties assert that the terminology used and standards established in current law applicable to the professionals who perform such evaluations, including provisions relating to training, standard practices, and testimony, need to be updated to conform to current professional standards. C.S.H.B. 1661 seeks to address these issues by amending current law relating to such evaluations and establishing separate provisions for child custody and adoption evaluations.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTIONS 2.01 and 6.01 of this bill and to the Texas State Board of Examiners of Psychologists, the Texas State Board of Examiners of Professional Counselors, the Texas State Board of Social Worker Examiners, the Texas State Board of Examiners of Marriage and Family Therapists, and the Texas Medical Board in SECTION 6.01 of this bill.

ANALYSIS

C.S.H.B. 1661 amends the Family Code to repeal provisions relating to a court-ordered social study in a suit affecting the parent-child relationship and to instead establish provisions relating to a child custody evaluation and an adoption evaluation in such suits. The bill specifies that neither a child custody evaluation nor an adoption evaluation under its provisions includes services provided in accordance with the Interstate Compact on the Placement of Children.

C.S.H.B. 1661 defines "child custody evaluation" as an evaluative process ordered by a court in a suit affecting the parent-child relationship, except for a suit in which adoption is requested, through which information, opinions, recommendations, and answers to specific questions asked by the court are made regarding the conservatorship of a child, the possession of or access to a child, recommendations for therapeutic services, or any other issue affecting the best interest of a child and through which such information, opinions, recommendations, and answers are provided to the court, the parties to the suit, the parties' attorneys, and any other person specially appointed by the court in the suit. The bill specifies that its provisions regarding child custody evaluations do not apply to a suit to which the Department of Family and Protective Services (DFPS) is a party. The bill authorizes a court to order the preparation of a child custody evaluation concerning a child who is at issue in the suit; a party to the suit; the home of any person requesting conservatorship of, possession of, or access to a child who is at issue in the suit; or any issue or question relating to the suit and requested by the court or agreed to by the parties to the suit before or during the evaluation process. The bill sets out the information required to be included in such an order.

C.S.H.B. 1661 sets out the types of records and information a child custody evaluator is required

to review, the people the evaluator is required to interview, and the observations and assessments the evaluator is required to make in conducting a child custody evaluation and authorizes a court issuing an order for evaluation to order the evaluator to take certain additional actions to evaluate a child and the parties involved in the suit. The bill requires each person who conducts a child custody evaluation to be properly qualified and sets out the minimum education and experience requirements for a person to be qualified to conduct a child custody evaluation. The bill authorizes a court in a county with a population of less than 500,000, if a court finds that a qualified person, including an entity, is not available to conduct the child custody evaluation in a timely manner, to authorize a person, including an entity, the court determines to be otherwise qualified to conduct the evaluation if the parties to the suit agree to the appointment in writing. The bill prohibits DFPS from conducting a child custody evaluation. The bill requires a private child custody evaluator, defined by the bill as a person conducting a child custody evaluation who is not doing so as an employee of or contractor with a domestic relations office, to demonstrate sufficient knowledge, education, and training to conduct a child custody evaluation and establishes the specific topics in which such an evaluator must have education and training.

C.S.H.B. 1661 sets out requirements relating to the disclosure of certain conflicts of interest and potential biases of a person who may be or has been appointed as a child custody evaluator and relating to the resignation of an evaluator who makes a disclosure under certain circumstances. The bill prohibits a person from being appointed as a child custody evaluator in a suit if the person has worked in a professional capacity with a party to the suit, a child who is at issue in the suit, or a member of the party's or child's family who is involved in the suit, except under certain circumstances.

C.S.H.B. 1661 makes a communication made by a participant in a child custody evaluation subject to disclosure, notwithstanding any rule, standard of care, or privilege applicable to the professional license held by a child custody evaluator, and authorizes such a communication to be offered in any judicial or administrative proceeding, if otherwise admissible under the rules of evidence. The bill establishes recordkeeping and retention requirements and post-evaluation disclosure requirements for a child custody evaluator and a private child custody evaluator.

C.S.H.B. 1661 requires a child custody evaluator, for each evaluation the evaluator conducts, to prepare a report containing the evaluator's findings, opinions, recommendations, and answers to specific questions asked by the court relating to the evaluation. The bill requires such a report to include the name, license number, and basis for qualification of each child custody evaluator who conducted any portion of the evaluation. The bill sets out provisions for the conduct of a child custody evaluator and the preparation of the required report, including requirements relating to professional standards of care; the disclosure of certain communications; the manner in which an evaluator makes assessments, recommendations, and observations and conducts interviews; the verification of statements of fact; and the basis for and sources of the conclusions and recommendations included in the report.

C.S.H.B. 1661 establishes provisions relating to the introduction and provision of a child custody evaluation report before the trial of an applicable suit, including deadlines by which a child custody evaluator who conducts an evaluation as an employee of or contractor with a domestic relations office or a private child custody evaluator must disclose the report to certain parties to the suit. The bill prohibits a trial in a suit in which a child custody evaluation is conducted from beginning before the 30th day after the date the child custody evaluator provides copies of the report as required unless the parties to the suit agree to an earlier date.

C.S.H.B. 1661 requires the court, if the court orders a child custody evaluation to be conducted, to award the person or entity appointed as the child custody evaluator a reasonable fee for the performance of the evaluation that is to be imposed in the form of a money judgment and paid directly to the evaluator. The bill authorizes the evaluator to enforce the judgment for the fee by any means available under law for civil judgments. The bill entitles a child custody evaluator to obtain from DFPS a complete, unredacted copy of any investigative record regarding abuse or

neglect that relates to any person residing in the residence subject to the child custody evaluation. The bill establishes the confidentiality of such information and protects it from disclosure either under the state public information law or in response to a subpoena or discovery request but authorizes a child custody evaluator to disclose such information in the evaluation report to the extent of the information's relevance to the child custody evaluation or to the evaluator's recommendations. The bill makes it a Class A misdemeanor offense for a person to disclose confidential information obtained from DFPS in violation of the bill's provisions.

C.S.H.B. 1661 defines "adoption evaluation" as a pre-placement or post-placement evaluative process through which information and recommendations regarding adoption of a child may be made to the court, the parties, and the parties' attorneys. The bill specifies that its provisions regarding adoption evaluations do not apply to the pre-placement and post-placement parts of an adoption evaluation conducted by a licensed child-placing agency or DFPS, and that those parts of an adoption evaluation are governed by rules adopted by the executive commissioner of the Health and Human Services Commission (HHSC). The bill requires a licensed child-placing agency or DFPS, in a case involving such an entity, to conduct the pre-placement and post-placement parts of the adoption evaluation and to file reports on those parts with the court before the court renders a final order of adoption. The bill authorizes a court to appoint DFPS to conduct the pre-placement and post-placement parts of an adoption evaluation in a suit only if DFPS is a party to the suit or is the managing conservator of the child who is the subject of the suit.

C.S.H.B. 1661 requires the court to order the performance of an adoption evaluation to evaluate each party who requests termination of the parent-child relationship or an adoption in a suit for termination of the parent-child relationship in which a person other than a parent may be appointed managing conservator of a child or in a suit for an adoption. The bill requires the adoption evaluation to include an evaluation of the circumstances and the condition of the home and social environment of any person requesting to adopt a child who is at issue in the suit. The bill authorizes the court to appoint a qualified individual, a qualified private entity, or a domestic relations office to conduct the adoption evaluation.

C.S.H.B. 1661 establishes provisions relating to the pre-placement part of an adoption evaluation, including requirements regarding the payment of costs of and minimum requirements for the pre-placement part of an adoption evaluation. The bill establishes provisions relating to the post-placement part of an adoption evaluation, including filing requirements for a report containing findings and conclusions and minimum requirements for the post-placement part of an adoption evaluation. The bill authorizes the report for the post-placement part of an adoption evaluation in a suit filed after a child who is at issue in the suit begins residence in a prospective adoptive home to be combined with the adoption evaluation report in a single report.

C.S.H.B. 1661 requires a person who conducts an adoption evaluation to be properly qualified and sets out the education and experience requirements for a person to be qualified to conduct an adoption evaluation. The bill authorizes a court, if the court finds that a qualified person is not available to conduct an adoption evaluation in the county in which the court presides, to authorize a person the court determines to be otherwise qualified to conduct the evaluation.

C.S.H.B. 1661 sets out requirements relating to the disclosure of certain conflicts of interest and potential biases of a person who may be or has been appointed as an adoption evaluator and relating to the resignation of an evaluator who makes a disclosure under certain circumstances. The bill prohibits a person from being appointed as an adoption evaluator in a suit if the person has worked in a professional capacity with a party to the suit, a child who is at issue in the suit, or a member of the party's or child's family who is involved in the suit, except under certain circumstances.

C.S.H.B. 1661 sets out provisions for the conduct of an adoption evaluator and the preparation of an evaluation report, including requirements relating to professional standards of care, the

disclosure of certain communications, the manner in which an evaluator makes assessments and recommendations, and the verification of statements of fact and the basis for any conclusions and recommendations included in an evaluation report. The bill requires any report prepared on an adoption evaluation to include the name, license number, and basis for qualification of each adoption evaluator who conducted any portion of the evaluation.

C.S.H.B. 1661 requires an adoption evaluator to report to DFPS any adoptive placement that appears to have been made by someone other than a licensed child-placing agency or a child's parent or managing conservator. The bill requires an adoption evaluator to file with the court, before the court renders a final order for termination of the parent-child relationship, a report containing the evaluator's findings and conclusions relating to the evaluation and requires the report to be made a part of the record of the suit. The bill requires a copy of that report, in a suit for adoption, to be made available to the prospective adoptive parents before the court renders a final order of adoption. The bill establishes provisions relating to the introduction and provision of an adoption evaluation report and testimony relating to an adoption evaluation. The bill requires the court, if it orders an adoption evaluation to be conducted, to award the evaluator a reasonable fee for the performance of the evaluation that is to be imposed in the form of a money judgment and paid directly to the evaluator. The bill authorizes the evaluator to enforce the judgment for the fee by any means available under law for civil judgments.

C.S.H.B. 1661 entitles an adoption evaluator to obtain from DFPS a complete, unredacted copy of any investigative record regarding abuse or neglect that relates to any person residing in the residence subject to the adoption evaluation. The bill establishes the confidentiality of such information and protects it from disclosure either under the state's public information law or in response to a subpoena or discovery request but authorizes an adoption evaluator to disclose such information in the adoption evaluation report to the extent of the information's relevance to the adoption evaluation or the evaluator's recommendations. The bill makes it a Class A misdemeanor offense for a person to disclose confidential information obtained from DFPS in violation of the bill's provisions.

C.S.H.B. 1661, in provisions applicable only to a suit in which DFPS is not a party, prohibits a person from offering an expert opinion relating to the conservatorship of or possession of or access to a child at issue in a suit affecting the parent-child relationship unless the person is appointed as the child's guardian ad litem or attorney ad litem or is appointed as an amicus attorney or has conducted a child custody evaluation relating to the child. The bill prohibits a mental health professional, in a disputed suit, from making a recommendation regarding the conservatorship of or possession of or access to a child at issue in the suit unless the mental health professional is appointed as the child's guardian ad litem or attorney ad litem or is appointed as an amicus attorney or has conducted a child custody evaluation relating to the child and has evaluated all of the parties to the suit. The bill authorizes a mental health professional to provide other relevant information and opinions, other than those prohibited by the bill, relating to any party that the mental health professional has evaluated.

C.S.H.B. 1661 requires the Texas State Board of Examiners of Psychologists, the Texas State Board of Examiners of Professional Counselors, the Texas State Board of Social Worker Examiners, the Texas State Board of Examiners of Marriage and Family Therapists, and the Texas Medical Board, not later than September 1, 2014, to adopt any rules necessary for license holders to comply with the bill's provisions and rules specifying that a person licensed by any of the boards is subject to the rules of the board that licensed the person when appointed by a court to conduct a child custody evaluation or adoption evaluation. The bill requires the rules to specify that any complaints relating to the outcome of a child custody evaluation or adoption evaluation conducted by a person licensed by any of the boards must be reported to the court that ordered the evaluation instead of to the board that licensed the person and requires the rules to require that license holders receive notice that the disclosure of confidential information in violation of the bill's provisions is grounds for disciplinary action.

C.S.H.B. 1661 requires the Texas State Board of Examiners of Psychologists, the Texas State Board of Examiners of Professional Counselors, and the Texas State Board of Examiners of Marriage and Family Therapists, as soon as possible after the bill's effective date, to adopt rules prohibiting a psychological associate, a licensed specialist in school psychology, a provisionally licensed psychologist, a licensed professional counselor intern, and a licensed marriage and family therapist associate from conducting a child custody evaluation unless the person is otherwise qualified to conduct the evaluation.

C.S.H.B. 1661 requires the executive commissioner of HHSC, as soon as possible after the bill's effective date, to adopt rules prohibiting a licensed chemical dependency counselor from conducting a child custody evaluation as a child custody evaluator unless the person is otherwise qualified to conduct the evaluation or is appointed by a court to conduct the evaluation. The bill requires the executive commissioner, not later than September 1, 2014, to adopt any rules necessary to implement the bill's provisions regarding adoption evaluations. The bill specifies that provisions regarding adoption evaluations apply to such an evaluation ordered by a court on or after September 1, 2014, or the date the executive commissioner adopts those rules, whichever occurs first.

C.S.H.B. 1661 establishes that a person is qualified to conduct a child custody evaluation or adoption evaluation without satisfying the applicable supervision requirements if, on or before the bill's effective date, the person completes at least 10 social studies or other child custody evaluations ordered by a court in suits affecting the parent-child relationship.

C.S.H.B. 1661 amends the Government Code and the Human Resources Code to make conforming changes.

C.S.H.B. 1661 repeals Subchapter D, Chapter 107, Family Code.

EFFECTIVE DATE

September 1, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1661 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	HOUSE COMMITTEE SUBSTITUTE
ARTICLE 1. CHILD CUSTODY EVALUATION	Same as introduced version.
SECTION 1.01. Chapter 107, Family Code, is amended by adding Subchapter E to read as follows: <u>SUBCHAPTER E. CHILD CUSTODY EVALUATION</u>	SECTION 1.01. Chapter 107, Family Code, is amended by adding Subchapter E to read as follows: <u>SUBCHAPTER E. CHILD CUSTODY EVALUATION</u>
<u>Sec. 107.101. DEFINITIONS. (a) In this subchapter:</u> <u>(1) "Child custody evaluation" means an evaluative process ordered by a court in a suit through which information, opinions,</u>	<u>Sec. 107.101. DEFINITIONS. In this subchapter:</u> <u>(1) "Child custody evaluation" means an evaluative process ordered by a court in a suit, except in a suit in which adoption is</u>

recommendations, and answers to specific questions asked by the court are:

(A) made regarding:

(i) the conservatorship of a child, including the terms and conditions of the conservatorship;

(ii) the possession of or access to a child, including the terms and conditions of possession or access;

(iii) recommendations for therapeutic services; or

(iv) any other issue affecting the best interest of a child; and

(B) provided to:

(i) the court;

(ii) the parties to the suit;

(iii) the parties' attorneys; and

(iv) any other person appointed under this chapter by the court in the suit.

(2) "Child custody evaluator" means a person who conducts a child custody evaluation under this subchapter. The term includes a private child custody evaluator.

(3) "Department" means the Department of Family and Protective Services.

(4) "Private child custody evaluator" means a person conducting a child custody evaluation who is not conducting the evaluation as an employee of or contractor with a domestic relations office.

(5) "Supervision" means the regular review of and consultation with a person. Supervision does not require the constant physical presence of the person providing supervision.

(b) For purposes of this subchapter, a child custody evaluation does not include services provided in accordance with the Interstate Compact on the Placement of Children adopted under Subchapter B, Chapter 162, or an evaluation conducted in accordance with Section 262.114 by an employee of or contractor with the department.

Sec. 107.102. ORDER FOR CHILD CUSTODY EVALUATION. (a) The court may order in a suit the preparation of a child custody evaluation concerning:

(1) a child who is at issue in the suit;

(2) a party to the suit;

(3) the home of any person requesting conservatorship of, possession of, or access

requested, through which information, opinions, recommendations, and answers to specific questions asked by the court are:

(A) made regarding:

(i) the conservatorship of a child, including the terms and conditions of the conservatorship;

(ii) the possession of or access to a child, including the terms and conditions of possession or access;

(iii) recommendations for therapeutic services; or

(iv) any other issue affecting the best interest of a child; and

(B) provided to:

(i) the court;

(ii) the parties to the suit;

(iii) the parties' attorneys; and

(iv) any other person appointed under this chapter by the court in the suit.

(2) "Child custody evaluator" means a person who conducts a child custody evaluation under this subchapter. The term includes a private child custody evaluator.

(3) "Department" means the Department of Family and Protective Services.

(4) "Private child custody evaluator" means a person conducting a child custody evaluation who is not conducting the evaluation as an employee of or contractor with a domestic relations office.

(5) "Supervision" means the regular review of and consultation with a person. Supervision does not require the constant physical presence of the person providing supervision.

Sec. 107.102. APPLICABILITY.

(a) For purposes of this subchapter, a child custody evaluation does not include services provided in accordance with the Interstate Compact on the Placement of Children adopted under Subchapter B, Chapter 162.

(b) This subchapter does not apply to a suit to which the department is a party.

Sec. 107.103. ORDER FOR CHILD CUSTODY EVALUATION. (a) The court may order in a suit the preparation of a child custody evaluation concerning:

(1) a child who is at issue in the suit;

(2) a party to the suit;

(3) the home of any person requesting conservatorship of, possession of, or access

to a child who is at issue in the suit; or
(4) any issue or question relating to the suit and requested by the court or agreed to by the parties to the suit before or during the evaluation process.

(b) An order for a child custody evaluation must include:

(1) the name of each person who will conduct the evaluation;

(2) the purpose of the evaluation; and

(3) the specific issues or questions to be addressed in the evaluation.

(c) Except as provided by Section 107.105, each person who conducts a child custody evaluation must be qualified under Section 107.104.

(d) The department may not conduct a child custody evaluation.

Sec. 107.103. REQUIREMENTS OF CHILD CUSTODY EVALUATION. (a) A child custody evaluator shall:

(1) review relevant information obtained from collateral sources;

(2) review relevant school records;

(3) review relevant physical and mental health records of each party to the suit and each child who is at issue in the suit;

(4) review relevant records of the department, including those maintained as part of the central registry established under Section 261.002, and law enforcement agencies relating to each child who is at issue in the suit, each party to the suit, and each person who lives with a party to the suit;

(5) interview each adult living in the home that is the subject of the evaluation, if applicable;

(6) interview, in a developmentally appropriate manner, each child who is at issue in the suit and who is at least four years old;

(7) observe each child who is at issue in the suit, regardless of the age of the child;

(8) observe each party to the suit with each child at issue in the suit, including, as appropriate, during supervised visitation, unless contact between a party and a child is prohibited by court order or the person conducting the evaluation has good cause for not making the observation and states the good cause in writing provided to the parties to the suit before the completion of the evaluation;

(9) assess the relationship between each

to a child who is at issue in the suit; or
(4) any issue or question relating to the suit and requested by the court or agreed to by the parties to the suit before or during the evaluation process.

(b) An order for a child custody evaluation must include:

(1) the name of each person, including an entity, who will conduct the evaluation;

(2) the purpose of the evaluation; and

(3) the specific issues or questions to be addressed in the evaluation.

(c) Except as provided by Section 107.106, each person who conducts a child custody evaluation must be qualified under Section 107.105.

(d) The department may not conduct a child custody evaluation.

Sec. 107.104. REQUIREMENTS OF CHILD CUSTODY EVALUATION. (a) A child custody evaluator shall:

(1) review relevant information obtained from collateral sources;

(2) review relevant school records;

(3) review relevant physical and mental health records of each party to the suit and each child who is at issue in the suit;

(4) review relevant records of the department, including those maintained as part of the central registry established under Section 261.002, and law enforcement agencies relating to each child who is at issue in the suit, each party to the suit, and each person who lives with a party to the suit;

(5) interview each adult living in a home that is the subject of the evaluation;

(6) interview, in a developmentally appropriate manner, each child who is at issue in the suit and who is at least four years old;

(7) observe each child who is at issue in the suit, regardless of the age of the child;

(8) observe each party to the suit with each child at issue in the suit, including, as appropriate, during supervised visitation, unless contact between a party and a child is prohibited by court order or the person conducting the evaluation has good cause for not making the observation and states the good cause in writing provided to the parties to the suit before the completion of the evaluation;

(9) assess the relationship between each child at issue in the suit and each party

child at issue in the suit and each party seeking possession of or access to the child, if applicable; and

(10) complete any other tasks ordered by the court or agreed to by the parties.

(b) In addition to the requirements of a child custody evaluation in Subsection (a), a court issuing an order for an evaluation may order the child custody evaluator to:

(1) visit the home of a party to the suit;

(2) conduct a joint interview of the parties to the suit;

(3) observe a child who is at issue in the suit with each adult who lives in the home that is the subject of the evaluation;

(4) interview or observe a child who is not at issue in the suit but who lives on a full-time or part-time basis in the home that is the subject of the evaluation;

(5) conduct valid and reliable psychological testing; or

(6) review any other information that the court determines is relevant.

Sec. 107.104. CHILD CUSTODY EVALUATOR: MINIMUM QUALIFICATIONS.

Sec. 107.105. EXCEPTION TO QUALIFICATIONS REQUIRED TO CONDUCT CHILD CUSTODY EVALUATION. In a county with a population of less than 500,000, if a court finds that a qualified person is not available to conduct a child custody evaluation in a timely manner, the court may authorize a person the court determines to be otherwise qualified to conduct the evaluation if the parties to the suit agree to the appointment in writing.

Sec. 107.106. PRIVATE CHILD CUSTODY EVALUATOR: SPECIALIZED KNOWLEDGE.

Sec. 107.107. CHILD CUSTODY EVALUATOR: CONFLICTS OF INTEREST AND BIAS.

Sec. 107.108. COMMUNICATIONS AND RECORDKEEPING OF CHILD CUSTODY EVALUATOR. (a) Notwithstanding any rule, standard of care, or privilege applicable to the professional

seeking possession of or access to the child; and

(10) complete any other tasks ordered by the court or agreed to by the parties.

(b) In addition to the requirements of a child custody evaluation in Subsection (a), a court issuing an order for an evaluation may order the child custody evaluator to:

(1) visit the home of a party to the suit;

(2) conduct a joint interview of the parties to the suit;

(3) observe a child who is at issue in the suit with each adult who lives in the home that is the subject of the evaluation;

(4) interview or observe a child who is not at issue in the suit but who lives on a full-time or part-time basis in the home that is the subject of the evaluation;

(5) conduct valid and reliable psychometric testing; or

(6) review any other information that the court determines is relevant.

Sec. 107.105. CHILD CUSTODY EVALUATOR: MINIMUM QUALIFICATIONS.

Sec. 107.106. EXCEPTION TO QUALIFICATIONS REQUIRED TO CONDUCT CHILD CUSTODY EVALUATION. In a county with a population of less than 500,000, if a court finds that a qualified person, including an entity, is not available to conduct a child custody evaluation in a timely manner, the court may authorize a person, including an entity, the court determines to be otherwise qualified to conduct the evaluation if the parties to the suit agree to the appointment in writing.

Sec. 107.107. PRIVATE CHILD CUSTODY EVALUATOR: SPECIALIZED KNOWLEDGE.

Sec. 107.108. CHILD CUSTODY EVALUATOR: CONFLICTS OF INTEREST AND BIAS.

Sec. 107.109. COMMUNICATIONS AND RECORDKEEPING OF CHILD CUSTODY EVALUATOR. (a) Notwithstanding any rule, standard of care, or privilege applicable to the professional

license held by a child custody evaluator, a communication made by a participant in a child custody evaluation is subject to disclosure and may be offered in any judicial or administrative proceeding, if otherwise admissible under the rules of evidence.

(b) A child custody evaluator shall keep a detailed record regarding interviews that the evaluator conducts, observations that the evaluator makes, and substantive interactions that the evaluator has as part of a child custody evaluation.

(c) Except for information the disclosure of which is governed by Section 261.201(f-2) or the disclosure of which is prohibited by a court order, a private child custody evaluator shall, after completion of an evaluation, make available in a reasonable time the evaluator's records relating to the evaluation on the written request of an attorney for a party, a party who does not have an attorney, or any other person appointed by the court under this chapter in the suit in which the evaluator conducted the evaluation.

(d) Except for information the disclosure of which is governed by Section 261.201(f-2), a child custody evaluator who conducted a child custody evaluation as an employee of or contractor with a domestic relations office shall, after completion of the evaluation, make available the evaluator's records to the persons described in Subsection (c) on written request according to the rules and policies of the office.

(e) A person maintaining records subject to disclosure under this section may charge a reasonable fee for producing copies of the records.

(f) A private child custody evaluator shall retain records relating to a child custody evaluation conducted by the evaluator until the later of the seventh anniversary of the date the evaluator filed the evaluator's report on the evaluation with the court or the ending date of the retention period established by the licensing authority that issues the professional license held by the evaluator.

license held by a child custody evaluator, a communication made by a participant in a child custody evaluation is subject to disclosure and may be offered in any judicial or administrative proceeding, if otherwise admissible under the rules of evidence.

(b) A child custody evaluator shall:

(1) keep a detailed record of interviews that the evaluator conducts, observations that the evaluator makes, and substantive interactions that the evaluator has as part of a child custody evaluation; and

(2) maintain the evaluator's records consistent with applicable laws, including rules.

(c) Except for records obtained from the department in accordance with Section 107.114, a private child custody evaluator shall, after completion of an evaluation and preparation of a child custody evaluation report under Section 107.110, make available in a reasonable time the evaluator's records relating to the evaluation on the written request of an attorney for a party, a party who does not have an attorney, and any person appointed under this chapter in the suit in which the evaluator conducted the evaluation, unless a court has issued an order restricting disclosure of the records.

(d) Except for records obtained from the department in accordance with Section 107.114, records relating to a child custody evaluation conducted by an employee of or contractor with a domestic relations office shall, after completion of the evaluation and preparation of a child custody evaluation report under Section 107.110, be made available on written request according to the local rules and policies of the office.

(e) A person, including an entity, maintaining records subject to disclosure under this section may charge a reasonable fee for producing the records before copying the records.

(f) A private child custody evaluator shall retain all records relating to a child custody evaluation conducted by the evaluator until the later of the seventh anniversary of the date the evaluator filed the child custody evaluation report prepared under Section 107.110 with the court or the ending date of the period adopted by the licensing authority that issues the professional license held by the evaluator.

(g) A domestic relations office shall retain records relating to a child custody evaluation conducted by a child custody evaluator acting as an employee of or contractor with the office for the retention period established by the office.

Sec. 107.109. CHILD CUSTODY EVALUATION REPORT REQUIRED.

Sec. 107.110. GENERAL PROVISIONS APPLICABLE TO CONDUCT OF CHILD CUSTODY EVALUATOR AND PREPARATION OF REPORT.

Sec. 107.111. INTRODUCTION AND PROVISION OF CHILD CUSTODY EVALUATION REPORT. (a) Disclosure to the court or jury of the contents of a child custody evaluation report prepared under Section 107.109 is subject to the rules of evidence.

(b) Unless the court has issued an order restricting disclosure, a private child custody evaluator shall provide to the attorneys of the parties to a suit, any party who does not have an attorney, and any other person appointed by the court under this chapter in the suit a copy of the child custody evaluation report before the earlier of:

(1) the seventh day after the date the child custody report is completed; or

(2) the 30th day before the date of the commencement of the trial, if applicable.

(c) A child custody evaluator who conducts a child custody evaluation as an employee of or contractor with a domestic relations office shall provide to the attorneys of the parties to a suit and any other person appointed by the court in the suit under this chapter a copy of the child custody evaluation report in the manner provided by Subsection (b). The evaluator shall provide a copy of the report to a party to the suit as provided by the rules and policies of the office or by a court order.

(d) A trial in a suit in which a child custody evaluation is conducted may not begin before the 30th day after the date the child custody evaluator provides copies of the

(g) A domestic relations office shall retain records relating to a child custody evaluation conducted by a child custody evaluator acting as an employee of or contractor with the office for the retention period established by the office.

(h) A person who participates in a child custody evaluation is not a patient as that term is defined by Section 611.001(1), Health and Safety Code.

Sec. 107.110. CHILD CUSTODY EVALUATION REPORT REQUIRED.

Sec. 107.111. GENERAL PROVISIONS APPLICABLE TO CONDUCT OF CHILD CUSTODY EVALUATOR AND PREPARATION OF REPORT.

Sec. 107.112. INTRODUCTION AND PROVISION OF CHILD CUSTODY EVALUATION REPORT. (a) Disclosure to the court or jury of the contents of a child custody evaluation report prepared under Section 107.110 is subject to the rules of evidence.

(b) Unless the court has issued an order restricting disclosure, a private child custody evaluator shall provide to the attorneys of the parties to a suit, any party who does not have an attorney, and any other person appointed by the court under this chapter in the suit a copy of the child custody evaluation report before the earlier of:

(1) the seventh day after the date the child custody report is completed; or

(2) the 30th day before the date of the commencement of the trial, if applicable.

(c) A child custody evaluator who conducts a child custody evaluation as an employee of or contractor with a domestic relations office shall furnish to the attorneys of the parties to a suit and any person appointed in the suit under this chapter a copy of the child custody evaluation report in the time frame provided by Subsection (b). The evaluator shall provide a copy of the report to a party to the suit only as provided by the local rules and policies of the office or by a court order.

(d) A trial in a suit in which a child custody evaluation is conducted may not begin before the 30th day after the date the child custody evaluator provides copies of the

child custody evaluation report as provided by this section unless the parties to the suit agree to an earlier date.

Sec. 107.112. CHILD CUSTODY EVALUATION FEE. If the court orders a child custody evaluation to be conducted, the court shall award the child custody evaluator a reasonable fee for the performance of the evaluation that shall be imposed in the form of a money judgment and paid directly to the evaluator. The evaluator may enforce the judgment for the fee by any means available under law for civil judgments.

Sec. 107.113. ACCESS TO RECORDS; OFFENSE.

(a) A child custody evaluator is entitled to obtain from the department any report, record, working paper, or other information in the possession, custody, or control of the department, including information that is confidential under Section 40.005, Human Resources Code, or other law, that pertains to an individual who is a subject of the evaluation.

(b) Any confidential information obtained by a child custody evaluator under this section remains confidential, subject to Subsection (c), and is not subject to disclosure under Chapter 552, Government Code, or to subpoena or discovery.

(c) A child custody evaluator may disclose confidential information obtained under this section in a child custody evaluation report prepared under Section 107.109 only to the extent that the evaluator determines that the information is relevant to the evaluator's recommendations in the report.

(d) Except as provided by Subsection (c) or by an order of the court that appointed the child custody evaluator, a child custody evaluator commits an offense if the evaluator releases or discloses confidential information obtained from the department under this section. An offense under this section is a Class A misdemeanor.

ARTICLE 2. ADOPTION EVALUATION

83R 19950

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child custody evaluation report as provided by this section unless the parties to the suit agree to an earlier date.

Sec. 107.113. CHILD CUSTODY EVALUATION FEE. If the court orders a child custody evaluation to be conducted, the court shall award the person, including an entity, appointed as the child custody evaluator a reasonable fee for the performance of the evaluation that shall be imposed in the form of a money judgment and paid directly to the evaluator. The evaluator may enforce the judgment for the fee by any means available under law for civil judgments.

Sec. 107.114. CHILD CUSTODY EVALUATOR ACCESS TO INVESTIGATIVE RECORDS OF DEPARTMENT; OFFENSE. (a) A child custody evaluator is entitled to obtain from the department a complete, unredacted copy of any investigative record regarding abuse or neglect that relates to any person residing in the residence subject to the child custody evaluation.

(b) Except as provided by this section, records obtained by a child custody evaluator from the department under this section are confidential and not subject to disclosure under Chapter 552, Government Code, or to disclosure in response to a subpoena or a discovery request.

(c) A child custody evaluator may disclose information obtained under Subsection (a) in the child custody evaluation report prepared under Section 107.110 only to the extent the evaluator determines that the information is relevant to the child custody evaluation or a recommendation made under this subchapter.

(d) A person commits an offense if the person discloses confidential information obtained from the department in violation of this section.

An offense under this subsection is a Class A misdemeanor.

Same as introduced version.

13.93.561

SECTION 2.01. Chapter 107, Family Code, is amended by adding Subchapter F to read as follows:

SUBCHAPTER F. ADOPTION EVALUATION

Sec. 107.151. DEFINITIONS. In this subchapter:

(1) "Adoption evaluation" means a pre-placement or post-placement evaluative process through which information and recommendations regarding adoption of a child may be made to the court, the parties, and the parties' attorneys. The term does not include services provided in accordance with the Interstate Compact on the Placement of Children adopted under Subchapter B, Chapter 162, or an evaluation conducted in accordance with Section 262.114 by an employee of or contractor with the department.

(2) "Adoption evaluator" means a person who conducts an adoption evaluation under this subchapter.

(3) "Department" means the Department of Family and Protective Services.

(4) "Supervision" means the regular review of and consultation with a person. Supervision does not require the constant physical presence of the person providing supervision.

SECTION 2.01. Chapter 107, Family Code, is amended by adding Subchapter F to read as follows:

SUBCHAPTER F. ADOPTION EVALUATION

Sec. 107.151. DEFINITIONS. In this subchapter:

(1) "Adoption evaluation" means a pre-placement or post-placement evaluative process through which information and recommendations regarding adoption of a child may be made to the court, the parties, and the parties' attorneys.

(2) "Adoption evaluator" means a person who conducts an adoption evaluation under this subchapter.

(3) "Department" means the Department of Family and Protective Services.

(4) "Supervision" means the regular review of and consultation with a person. Supervision does not require the constant physical presence of the person providing supervision.

Sec. 107.152. APPLICABILITY. (a) For purposes of this subchapter, an adoption evaluation does not include services provided in accordance with the Interstate Compact on the Placement of Children adopted under Subchapter B, Chapter 162.

(b) This subchapter does not apply to the pre-placement and post-placement parts of an adoption evaluation conducted by a licensed child-placing agency or the department.

(c) The pre-placement and post-placement parts of an adoption evaluation conducted by a licensed child-placing agency or the department are governed by rules adopted by the executive commissioner of the Health and Human Services Commission.

(d) In a case involving a licensed child-placing agency or the department, a licensed child-placing agency or the department shall conduct the pre-placement and post-placement parts of the adoption evaluation and file reports on those parts with the court before the court renders a final order of adoption.

Sec. 107.152. ORDER FOR ADOPTION EVALUATION. (a) The court shall order the performance of an adoption evaluation to evaluate each party who requests termination of the parent-child relationship or an adoption in a suit for:

(1) termination of the parent-child relationship in which a person other than a parent may be appointed managing conservator of a child; or

(2) an adoption.

(b) The adoption evaluation required under Subsection (a) must include an evaluation of the circumstances and the condition of the home and social environment of any person requesting to adopt a child who is at issue in the suit.

(c) If the department is not a party to the suit, the court may appoint a qualified individual, a qualified private entity, or a domestic relations office to conduct the adoption evaluation. If the department is a party to the suit, the court may also appoint a state agency, including the department, to conduct the adoption evaluation.

(d) Except as provided by Section 107.156, a person who conducts an adoption evaluation must be qualified under Section 107.155.

Sec. 107.153. REQUIREMENTS FOR PRE-PLACEMENT PART OF ADOPTION EVALUATION.

(a) This section does not apply to the pre-placement part of an adoption evaluation conducted by a licensed child-placing agency or the department. The pre-placement part of an adoption evaluation conducted by a licensed child-placing agency or the department is governed by rules adopted by the executive commissioner of the Health and Human Services Commission, including rules adopted under Chapter 42, Human Resources Code.

(b) Except as provided by Subsection (f), a person who conducts an adoption evaluation must file with the court a report containing the person's findings and conclusions made

(e) A court may appoint the department to conduct the pre-placement and post-placement parts of an adoption evaluation in a suit only if the department is:

(1) a party to the suit; or

(2) the managing conservator of the child who is the subject of the suit.

Sec. 107.153. ORDER FOR ADOPTION EVALUATION. (a) The court shall order the performance of an adoption evaluation to evaluate each party who requests termination of the parent-child relationship or an adoption in a suit for:

(1) termination of the parent-child relationship in which a person other than a parent may be appointed managing conservator of a child; or

(2) an adoption.

(b) The adoption evaluation required under Subsection (a) must include an evaluation of the circumstances and the condition of the home and social environment of any person requesting to adopt a child who is at issue in the suit.

(c) The court may appoint a qualified individual, a qualified private entity, or a domestic relations office to conduct the adoption evaluation.

(d) Except as provided by Section 107.157, a person who conducts an adoption evaluation must be qualified under Section 107.156.

Sec. 107.154. REQUIREMENTS FOR PRE-PLACEMENT PART OF ADOPTION EVALUATION.

before a child who is at issue in the suit to which the subject of the evaluation is a party begins residence in a prospective adoptive home.

(c) The report required under Subsection (b) must be filed with the court before the court renders a final order for termination of the parent-child relationship.

(d) The costs of the pre-placement part of an adoption evaluation in a suit for adoption must be paid by the prospective adoptive parent.

(e) Unless otherwise agreed to by the court, the pre-placement part of an adoption evaluation must comply with the minimum requirements for the pre-placement part of an adoption evaluation under rules adopted by the executive commissioner of the Health and Human Services Commission.

(f) In a suit filed after a child who is at issue in the suit begins residence in a prospective adoptive home, the report required under this section and the report required under Section 107.154 may be combined in a single report.

Sec. 107.154. REQUIREMENTS FOR POST-PLACEMENT PART OF ADOPTION EVALUATION. (a) An adoption evaluator shall file with the court a report containing the person's findings and conclusions made after a child who is at issue in the suit to which the subject of the evaluation is a party begins residence in a prospective adoptive home.

(b) The report required under Subsection (a) must be filed with the court before the court renders a final order of adoption.

(c) Unless otherwise agreed to by the court, the post-placement part of an adoption evaluation must comply with the minimum requirements for the post-placement part of an adoption evaluation under rules adopted by the executive commissioner of the Health and Human Services Commission.

Sec. 107.155. ADOPTION EVALUATOR: MINIMUM QUALIFICATIONS.

Sec. 107.156. EXCEPTION TO

(a) The costs of the pre-placement part of an adoption evaluation in a suit for adoption must be paid by the prospective adoptive parent.

(b) Unless otherwise agreed to by the court, the pre-placement part of an adoption evaluation must comply with the minimum requirements for the pre-placement part of an adoption evaluation under rules adopted by the executive commissioner of the Health and Human Services Commission.

Sec. 107.155. REQUIREMENTS FOR POST-PLACEMENT PART OF ADOPTION EVALUATION. (a) An adoption evaluator shall file with the court a report containing the person's findings and conclusions made after a child who is at issue in the suit to which the subject of the evaluation is a party begins residence in a prospective adoptive home.

(b) The report required under Subsection (a) must be filed with the court before the court renders a final order of adoption.

(c) Unless otherwise agreed to by the court, the post-placement part of an adoption evaluation must comply with the minimum requirements for the post-placement part of an adoption evaluation under rules adopted by the executive commissioner of the Health and Human Services Commission.

(d) In a suit filed after a child who is at issue in the suit begins residence in a prospective adoptive home, the report required under this section and the adoption evaluation report required under Section 107.161 may be combined in a single report.

Sec. 107.156. ADOPTION EVALUATOR: MINIMUM QUALIFICATIONS.

Sec. 107.157. EXCEPTION TO

QUALIFICATIONS REQUIRED TO CONDUCT ADOPTION EVALUATION.

Sec. 107.157. ADOPTION EVALUATOR: CONFLICTS OF INTEREST AND BIAS.

Sec. 107.158. GENERAL PROVISIONS APPLICABLE TO CONDUCT OF ADOPTION EVALUATOR AND PREPARATION OF REPORTS.

Sec. 107.159. REPORTING CERTAIN PLACEMENTS FOR ADOPTION.

Sec. 107.160. ADOPTION EVALUATION REPORT REQUIRED. An adoption evaluator shall file with the court on a date set by the court a report containing the evaluator's findings and conclusions relating to the evaluation.

The report shall be made a part of the record of the suit.

Sec. 107.161. PROSPECTIVE ADOPTIVE PARENTS ENTITLED TO RECEIVE COPY OF ADOPTION EVALUATION REPORT.

Sec. 107.162. INTRODUCTION AND PROVISION OF ADOPTION EVALUATION REPORT AND TESTIMONY RELATING TO ADOPTION EVALUATION. (a)

Disclosure to the jury of the contents of an adoption evaluation report prepared under Section 107.160 is subject to the rules of evidence.

(b) An adoption evaluator shall provide to the attorneys of the parties to a suit and any other person appointed by the court under this chapter in the suit a copy of the report prepared under Section 107.160 before the earlier of:

- (1) the seventh day after the date the adoption evaluation report is completed; or
- (2) the 30th day before the date of the commencement of the trial, if applicable.

(c) The court may compel the attendance of witnesses necessary for the proper disposition of a suit, including a representative of an agency that conducts an adoption evaluation, who may be compelled to testify.

QUALIFICATIONS REQUIRED TO CONDUCT ADOPTION EVALUATION.

Sec. 107.158. ADOPTION EVALUATOR: CONFLICTS OF INTEREST AND BIAS.

Sec. 107.159. GENERAL PROVISIONS APPLICABLE TO CONDUCT OF ADOPTION EVALUATOR AND PREPARATION OF REPORTS.

Sec. 107.160. REPORTING CERTAIN PLACEMENTS FOR ADOPTION.

Sec. 107.161. ADOPTION EVALUATION REPORT REQUIRED. An adoption evaluator shall file with the court a report containing the evaluator's findings and conclusions relating to the evaluation. The report must be filed before the court renders a final order for termination of the parent-child relationship. The report shall be made a part of the record of the suit.

Sec. 107.162. PROSPECTIVE ADOPTIVE PARENTS ENTITLED TO RECEIVE COPY OF ADOPTION EVALUATION REPORT.

Sec. 107.163. INTRODUCTION AND PROVISION OF ADOPTION EVALUATION REPORT AND TESTIMONY RELATING TO ADOPTION EVALUATION. (a)

Disclosure to the jury of the contents of an adoption evaluation report prepared under Section 107.161 is subject to the rules of evidence.

(b) The court may compel the attendance of witnesses necessary for the proper disposition of a suit, including a representative of an agency that conducts an adoption evaluation, who may be compelled to testify.

Sec. 107.163. ADOPTION EVALUATION FEE.

Sec. 107.164. ACCESS TO RECORDS; OFFENSE.

(a) An adoption evaluator is entitled to obtain from the department any report, record, working paper, or other information in the possession, custody, or control of the department, including information that is confidential under Section 40.005, Human Resources Code, or other law, that pertains to a person who is a subject of the evaluation.

(b) Any confidential information obtained by an adoption evaluator under this section remains confidential, subject to Subsection (c), and is not subject to disclosure under Chapter 552, Government Code, or to subpoena or discovery.

(c) An adoption evaluator may disclose confidential information obtained under this section in a report prepared on the evaluation only to the extent that the evaluator determines that the information is relevant to the evaluator's recommendations in the report.

(d) Except as provided by Subsection (c) or by an order of the court that appointed the adoption evaluator, an adoption evaluator commits an offense if the evaluator releases or discloses confidential information obtained from the department under this section. An offense under this section is a Class A misdemeanor.

ARTICLE 3. TESTIMONY IN SUITS AFFECTING THE PARENT-CHILD RELATIONSHIP

SECTION 3.01. Chapter 104, Family Code, is amended by adding Section 104.008 to read as follows:

Sec. 104.008. CERTAIN TESTIMONY PROHIBITED. (a) A person may not offer an expert opinion relating to the conservatorship of or possession of or access to a child at issue in a suit unless the person:

Sec. 107.164. ADOPTION EVALUATION FEE.

Sec. 107.165. ADOPTION EVALUATOR ACCESS TO INVESTIGATIVE RECORDS OF DEPARTMENT; OFFENSE.

(a) An adoption evaluator is entitled to obtain from the department a complete, unredacted copy of any investigative record regarding abuse or neglect that relates to any person residing in the residence subject to the adoption evaluation.

(b) Except as provided by this section, records obtained by an adoption evaluator from the department under this section are confidential and not subject to disclosure under Chapter 552, Government Code, or to disclosure in response to a subpoena or a discovery request.

(c) An adoption evaluator may disclose information obtained under Subsection (a) in the adoption evaluation report prepared under Section 107.161 only to the extent the evaluator determines that the information is relevant to the adoption evaluation or a recommendation made under this subchapter.

(d) A person commits an offense if the person discloses confidential information obtained from the department in violation of this section.

An offense under this subsection is a Class A misdemeanor.

Same as introduced version.

SECTION 3.01. Chapter 104, Family Code, is amended by adding Section 104.008 to read as follows:

Sec. 104.008. CERTAIN TESTIMONY PROHIBITED. (a) A person may not offer an expert opinion relating to the conservatorship of or possession of or access to a child at issue in a suit unless the person:

(1) is appointed as the child's guardian ad litem under Subchapter A, Chapter 107; or

(2) has conducted a child custody evaluation relating to the child under Subchapter E, Chapter 107.

(b) In a disputed suit, a mental health professional may not make a recommendation regarding the conservatorship of or possession of or access to a child at issue in the suit unless the mental health professional:

(1) is appointed as the child's guardian ad litem under Subchapter A, Chapter 107; or

(2) has conducted a child custody evaluation relating to the child under Subchapter E, Chapter 107, and has evaluated all of the parties to the suit.

(c) Subsection (b) does not apply to a mental health professional who is providing other relevant information and opinions relating to any party that the mental health professional has evaluated.

(1) is appointed as the child's guardian ad litem or attorney ad litem or is appointed as an amicus attorney under Subchapter A, Chapter 107; or

(2) has conducted a child custody evaluation relating to the child under Subchapter E, Chapter 107.

(b) In a disputed suit, a mental health professional may not make a recommendation regarding the conservatorship of or possession of or access to a child at issue in the suit unless the mental health professional:

(1) is appointed as the child's guardian ad litem or attorney ad litem or is appointed as an amicus attorney under Subchapter A, Chapter 107; or

(2) has conducted a child custody evaluation relating to the child under Subchapter E, Chapter 107, and has evaluated all of the parties to the suit.

(c) In a disputed suit, a mental health professional may provide other relevant information and opinions, other than those prohibited by Subsection (b), relating to any party that the mental health professional has evaluated.

(d) This section does not apply to a suit in which the Department of Family and Protective Services is a party.

ARTICLE 4. CONFORMING AMENDMENTS RELATING TO CHILD CUSTODY EVALUATIONS AND ADOPTION EVALUATIONS

Same as introduced version.

SECTION 4.01. The heading to Chapter 107, Family Code, is amended.

SECTION 4.01. Same as introduced version.

SECTION 4.02. Section 153.605(d), Family Code, is amended.

SECTION 4.02. Same as introduced version.

SECTION 4.03. Section 162.0025, Family Code, is amended.

SECTION 4.03. Same as introduced version.

SECTION 4.04. Section 162.003, Family Code, is amended.

SECTION 4.04. Same as introduced version.

SECTION 4.05. Section 162.0045, Family Code, is amended.

SECTION 4.05. Same as introduced version.

SECTION 4.06. Section 203.004(a), Family Code, is amended.

SECTION 4.06. Same as introduced version.

SECTION 4.07. Section 203.005(a), Family Code, is amended.

SECTION 4.07. Same as introduced version.

SECTION 4.08. Section 261.201, Family Code, is amended by adding Subsection (f-2) to read as follows:

No equivalent provision.

(f-2) Not later than the 31st day after the date the person makes a request for information, the department shall provide to a child custody evaluator or adoption evaluator appointed under Chapter 107 any report, record, working paper, or other information in the possession, custody, or control of the department that pertains to an individual who is a subject of the evaluation. Confidential information provided under this subsection remains confidential, and the evaluator may disclose the information only as provided by Section 107.113 or 107.164 or by an order of the court that appointed the evaluator.

SECTION 4.09. Section 411.1285(c), Government Code, is amended.

SECTION 4.08. Same as introduced version.

SECTION 4.10. Section 152.06331(f), Human Resources Code, is amended.

SECTION 4.09. Same as introduced version.

ARTICLE 5. REPEALER

Same as introduced version.

SECTION 5.01. Subchapter D, Chapter 107, Family Code, is repealed.

SECTION 5.01. Same as introduced version.

ARTICLE 6. TRANSITION AND EFFECTIVE DATE

SECTION 6.01. (a) Not later than September 1, 2014, the Texas State Board of Examiners of Psychologists, the Texas State Board of Examiners of Professional Counselors, the Texas State Board of Social Worker Examiners, the Texas State Board of Examiners of Marriage and Family Therapists, and the Texas Medical Board shall adopt any rules necessary for license holders to comply with the requirements of Subchapters E and F, Chapter 107, Family Code, as added by this Act, and specifying that a person licensed by any of the boards is subject to the rules of the board that licensed the person when appointed by a court to conduct a child custody evaluation or adoption evaluation under Subchapter E or F, Chapter 107, Family Code, as added by this Act.

(b) As soon as possible after the effective date of this Act, the Texas State Board of Examiners of Psychologists, the Texas State Board of Examiners of Professional Counselors, and the Texas State Board of Examiners of Marriage and Family Therapists shall adopt rules prohibiting a psychological associate, a licensed specialist in school psychology, a provisionally licensed psychologist, a licensed professional counselor intern, and a licensed marriage and family therapist associate from conducting a child custody evaluation under Subchapter E, Chapter 107, Family Code, as added by this Act, unless the person is otherwise qualified to conduct the evaluation.

Same as introduced version.

SECTION 6.01. (a) Not later than September 1, 2014, the Texas State Board of Examiners of Psychologists, the Texas State Board of Examiners of Professional Counselors, the Texas State Board of Social Worker Examiners, the Texas State Board of Examiners of Marriage and Family Therapists, and the Texas Medical Board shall adopt any rules necessary for license holders to comply with the requirements of Subchapters E and F, Chapter 107, Family Code, as added by this Act, and specifying that a person licensed by any of the boards is subject to the rules of the board that licensed the person when appointed by a court to conduct a child custody evaluation or adoption evaluation under Subchapter E or F, Chapter 107, Family Code, as added by this Act. The rules adopted under this subsection must:

(1) specify that any complaints relating to the outcome of a child custody evaluation or adoption evaluation conducted by a person licensed by any of the boards must be reported to the court that ordered the evaluation instead of to the board that licensed the person; and

(2) require that license holders receive notice that the disclosure of confidential information in violation of Section 107.114 or 107.165, Family Code, as added by this Act, is grounds for disciplinary action.

(b) As soon as possible after the effective date of this Act, the Texas State Board of Examiners of Psychologists, the Texas State Board of Examiners of Professional Counselors, and the Texas State Board of Examiners of Marriage and Family Therapists shall adopt rules prohibiting a psychological associate, a licensed specialist in school psychology, a provisionally licensed psychologist, a licensed professional counselor intern, and a licensed marriage and family therapist associate from conducting a child custody evaluation under Subchapter E, Chapter 107, Family Code, as added by this Act, unless the person is otherwise qualified to conduct the evaluation.

(c) As soon as possible after the effective date of this Act, the executive commissioner of the Health and Human Services Commission shall adopt rules prohibiting a licensed chemical dependency counselor from conducting a child custody evaluation as a child custody evaluator under Subchapter E, Chapter 107, Family Code, as added by this Act, unless the person is otherwise qualified to conduct the evaluation or is appointed by a court to conduct the evaluation under Section 107.105, Family Code, as added by this Act.

(d) Not later than September 1, 2014, the executive commissioner of the Health and Human Services Commission shall adopt any rules necessary to implement Subchapters E and F, Chapter 107, Family Code, as added by this Act, including rules that direct a person to report any complaints relating to the outcome of a child custody evaluation or adoption evaluation conducted under Subchapters E and F, Chapter 107, Family Code, as added by this Act, to the court that ordered the evaluation instead of to the licensing authority that issued a professional license to the person who conducted the evaluation.

No equivalent provision.

(c) As soon as possible after the effective date of this Act, the executive commissioner of the Health and Human Services Commission shall adopt rules prohibiting a licensed chemical dependency counselor from conducting a child custody evaluation as a child custody evaluator under Subchapter E, Chapter 107, Family Code, as added by this Act, unless the person is otherwise qualified to conduct the evaluation or is appointed by a court to conduct the evaluation under Section 107.106, Family Code, as added by this Act.

(d) Not later than September 1, 2014, the executive commissioner of the Health and Human Services Commission shall adopt any rules necessary to implement Subchapter F, Chapter 107, Family Code, as added by this Act.

Subchapter F, Chapter 107, Family Code, as added by this Act, applies to an adoption evaluation ordered by a court on or after September 1, 2014, or the date the executive commissioner adopts rules under this subsection, whichever occurs first. An adoption evaluation, pre-adoptive social study, or post-placement adoptive social study ordered by a court before that date is governed by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

SECTION 6.02. Notwithstanding any other law, a person shall be qualified to conduct a child custody evaluation under Section 107.105(b)(1) or (2), Family Code, as added by this Act, or an adoption evaluation under Section 107.156(b)(3), Family Code, as added by this Act, without satisfying the supervision requirements of Section 107.105(b)(1)(B) or (2)(B) if, on or before the effective date of this Act, the person completes at least 10 social studies or other child custody evaluations ordered by a court

in suits affecting the parent-child relationship.

SECTION 6.02. The changes in law made by this Act apply to a suit affecting the parent-child relationship that is pending in a court on the effective date of this Act or that is filed on or after that date.

SECTION 6.03. Same as introduced version.

SECTION 6.03. This Act takes effect September 1, 2013.

SECTION 6.04. Same as introduced version.