

By: Dukes

H.B. No. 1228

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to consideration by the court of sexual abuse and conduct  
3 that constitutes sexual assault in certain suits affecting the  
4 parent-child relationship.

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

6 SECTION 1. The heading to Section 153.004, Family Code, is  
7 amended to read as follows:

8 Sec. 153.004. HISTORY OF DOMESTIC VIOLENCE OR SEXUAL ABUSE.

9 SECTION 2. Section 153.004, Family Code, is amended by  
10 amending Subsections (a), (c), and (d) and adding Subsection (d-1)  
11 to read as follows:

12 (a) In determining whether to appoint a party as a sole or  
13 joint managing conservator, the court shall consider evidence of  
14 the intentional use of abusive physical force, or evidence of  
15 sexual abuse, by a party directed against the party's spouse, a  
16 parent of the child, or any person younger than 18 years of age  
17 committed within a two-year period preceding the filing of the suit  
18 or during the pendency of the suit.

19 (c) The court shall consider the commission of family  
20 violence or sexual abuse in determining whether to deny, restrict,  
21 or limit the possession of a child by a parent who is appointed as a  
22 possessory conservator.

23 (d) The court may not allow a parent to have access to a  
24 child for whom it is shown by a preponderance of the evidence that:

1           (1) there is a history or pattern of committing family  
2 violence during the two years preceding the date of the filing of  
3 the suit or during the pendency of the suit; or

4           (2) the parent engaged in conduct that constitutes an  
5 offense under Section 21.02, 22.011, 22.021, or 25.02, Penal Code,  
6 and that as a direct result of the conduct, the victim of the  
7 conduct became pregnant with the parent's child.

8           (d-1) Notwithstanding Subsection (d), the court may allow a  
9 parent to have access to a child if [~~unless~~] the court:

10           (1) finds that awarding the parent access to the child  
11 would not endanger the child's physical health or emotional welfare  
12 and would be in the best interest of the child; and

13           (2) renders a possession order that is designed to  
14 protect the safety and well-being of the child and any other person  
15 who has been a victim of family violence committed by the parent and  
16 that may include a requirement that:

17                   (A) the periods of access be continuously  
18 supervised by an entity or person chosen by the court;

19                   (B) the exchange of possession of the child occur  
20 in a protective setting;

21                   (C) the parent abstain from the consumption of  
22 alcohol or a controlled substance, as defined by Chapter 481,  
23 Health and Safety Code, within 12 hours prior to or during the  
24 period of access to the child; or

25                   (D) the parent attend and complete a battering  
26 intervention and prevention program as provided by Article 42.141,  
27 Code of Criminal Procedure, or, if such a program is not available,

1 complete a course of treatment under Section 153.010.

2 SECTION 3. Section 154.001(a-1), Family Code, is amended to  
3 read as follows:

4 (a-1) The court may order each person who is financially  
5 able and whose parental rights have been terminated with respect to  
6 either a child in substitute care for whom the department has been  
7 appointed managing conservator or a child who was conceived as a  
8 direct result of conduct that constitutes an offense under Section  
9 21.02, 22.011, 22.021, or 25.02, Penal Code, to support the child in  
10 the manner specified by the order:

11 (1) until the earliest of:

12 (A) the child's adoption;

13 (B) the child's 18th birthday or graduation  
14 from high school, whichever occurs later;

15 (C) removal of the child's disabilities of  
16 minority by court order, marriage, or other operation of law; or

17 (D) the child's death; or

18 (2) if the child is disabled as defined in this  
19 chapter, for an indefinite period.

20 SECTION 4. Section 161.007, Family Code, is amended to read  
21 as follows:

22 Sec. 161.007. TERMINATION WHEN PREGNANCY RESULTS FROM  
23 CRIMINAL ACT. The court shall [~~may~~] order the termination of the  
24 parent-child relationship of a parent and a child if the court finds  
25 by clear and convincing evidence that:

26 (1) the parent has engaged in conduct that constitutes  
27 [~~been convicted of~~] an offense [~~committed~~] under Section 21.02,

1 22.011, 22.021, or 25.02, Penal Code;

2 (2) as a direct result of the conduct described by  
3 Subdivision (1) [~~commission of the offense by the parent~~], the  
4 victim of the conduct [~~offense~~] became pregnant with the parent's  
5 child; and

6 (3) termination is in the best interest of the child.

7 SECTION 5. The changes in law made by this Act apply only to  
8 a suit affecting the parent-child relationship pending in a trial  
9 court on the effective date of this Act or filed on or after that  
10 date. A suit affecting the parent-child relationship in which a  
11 final order is rendered before the effective date of this Act is  
12 governed by the law in effect on the date the order was rendered,  
13 and the former law is continued in effect for that purpose.

14 SECTION 6. The enactment of this Act constitutes a material  
15 and substantial change of circumstances sufficient to warrant  
16 modification of a court order or portion of a decree that provides  
17 for the possession of or access to a child rendered before the  
18 effective date of this Act.

19 SECTION 7. This Act takes effect September 1, 2013.