

1-1 By: Dukes, et al. (Senate Sponsor - Davis) H.B. No. 1228
1-2 (In the Senate - Received from the House May 8, 2013;
1-3 May 9, 2013, read first time and referred to Committee on
1-4 Jurisprudence; May 20, 2013, reported favorably by the following
1-5 vote: Yeas 5, Nays 0; May 20, 2013, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11			X	
1-12			X	
1-13	X			
1-14	X			

1-15 A BILL TO BE ENTITLED
1-16 AN ACT

1-17 relating to consideration by the court of sexual abuse and conduct
1-18 that constitutes sexual assault in certain suits affecting the
1-19 parent-child relationship.

1-20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-21 SECTION 1. The heading to Section 153.004, Family Code, is
1-22 amended to read as follows:

1-23 Sec. 153.004. HISTORY OF DOMESTIC VIOLENCE OR SEXUAL ABUSE.

1-24 SECTION 2. Section 153.004, Family Code, is amended by
1-25 amending Subsections (a), (c), and (d) and adding Subsection (d-1)
1-26 to read as follows:

1-27 (a) In determining whether to appoint a party as a sole or
1-28 joint managing conservator, the court shall consider evidence of
1-29 the intentional use of abusive physical force, or evidence of
1-30 sexual abuse, by a party directed against the party's spouse, a
1-31 parent of the child, or any person younger than 18 years of age
1-32 committed within a two-year period preceding the filing of the suit
1-33 or during the pendency of the suit.

1-34 (c) The court shall consider the commission of family
1-35 violence or sexual abuse in determining whether to deny, restrict,
1-36 or limit the possession of a child by a parent who is appointed as a
1-37 possessory conservator.

1-38 (d) The court may not allow a parent to have access to a
1-39 child for whom it is shown by a preponderance of the evidence that:

1-40 (1) there is a history or pattern of committing family
1-41 violence during the two years preceding the date of the filing of
1-42 the suit or during the pendency of the suit; or

1-43 (2) the parent engaged in conduct that constitutes an
1-44 offense under Section 21.02, 22.011, 22.021, or 25.02, Penal Code,
1-45 and that as a direct result of the conduct, the victim of the
1-46 conduct became pregnant with the parent's child.

1-47 (d-1) Notwithstanding Subsection (d), the court may allow a
1-48 parent to have access to a child if [~~, unless~~] the court:

1-49 (1) finds that awarding the parent access to the child
1-50 would not endanger the child's physical health or emotional welfare
1-51 and would be in the best interest of the child; and

1-52 (2) renders a possession order that is designed to
1-53 protect the safety and well-being of the child and any other person
1-54 who has been a victim of family violence committed by the parent and
1-55 that may include a requirement that:

1-56 (A) the periods of access be continuously
1-57 supervised by an entity or person chosen by the court;

1-58 (B) the exchange of possession of the child occur
1-59 in a protective setting;

1-60 (C) the parent abstain from the consumption of
1-61 alcohol or a controlled substance, as defined by Chapter 481,

2-1 Health and Safety Code, within 12 hours prior to or during the
2-2 period of access to the child; or

2-3 (D) the parent attend and complete a battering
2-4 intervention and prevention program as provided by Article 42.141,
2-5 Code of Criminal Procedure, or, if such a program is not available,
2-6 complete a course of treatment under Section 153.010.

2-7 SECTION 3. Section 154.001(a-1), Family Code, is amended to
2-8 read as follows:

2-9 (a-1) The court may order each person who is financially
2-10 able and whose parental rights have been terminated with respect to
2-11 either a child in substitute care for whom the department has been
2-12 appointed managing conservator or a child who was conceived as a
2-13 direct result of conduct that constitutes an offense under Section
2-14 21.02, 22.011, 22.021, or 25.02, Penal Code, to support the child in
2-15 the manner specified by the order:

2-16 (1) until the earliest of:

2-17 (A) the child's adoption;

2-18 (B) the child's 18th birthday or graduation
2-19 from high school, whichever occurs later;

2-20 (C) removal of the child's disabilities of
2-21 minority by court order, marriage, or other operation of law; or

2-22 (D) the child's death; or

2-23 (2) if the child is disabled as defined in this
2-24 chapter, for an indefinite period.

2-25 SECTION 4. Section 161.007, Family Code, is amended to read
2-26 as follows:

2-27 Sec. 161.007. TERMINATION WHEN PREGNANCY RESULTS FROM
2-28 CRIMINAL ACT. (a) Except as provided by Subsection (b), the [The]
2-29 court shall [may] order the termination of the parent-child
2-30 relationship of a parent and a child if the court finds by clear and
2-31 convincing evidence that:

2-32 (1) the parent has engaged in conduct that constitutes
2-33 [been convicted of] an offense [committed] under Section 21.02,
2-34 22.011, 22.021, or 25.02, Penal Code;

2-35 (2) as a direct result of the conduct described by
2-36 Subdivision (1) [commission of the offense by the parent], the
2-37 victim of the conduct [offense] became pregnant with the parent's
2-38 child; and

2-39 (3) termination is in the best interest of the child.

2-40 (b) If, for the two years after the birth of the child, the
2-41 parent was married to or cohabiting with the other parent of the
2-42 child, the court may order the termination of the parent-child
2-43 relationship of the parent and the child if the court finds that:

2-44 (1) the parent has been convicted of an offense
2-45 committed under Section 21.02, 22.011, 22.021, or 25.02, Penal
2-46 Code;

2-47 (2) as a direct result of the commission of the offense
2-48 by the parent, the other parent became pregnant with the child; and

2-49 (3) termination is in the best interest of the child.

2-50 SECTION 5. The changes in law made by this Act apply only to
2-51 a suit affecting the parent-child relationship pending in a trial
2-52 court on the effective date of this Act or filed on or after that
2-53 date. A suit affecting the parent-child relationship in which a
2-54 final order is rendered before the effective date of this Act is
2-55 governed by the law in effect on the date the order was rendered,
2-56 and the former law is continued in effect for that purpose.

2-57 SECTION 6. The enactment of this Act constitutes a material
2-58 and substantial change of circumstances sufficient to warrant
2-59 modification of a court order or portion of a decree that provides
2-60 for the possession of or access to a child rendered before the
2-61 effective date of this Act.

2-62 SECTION 7. This Act takes effect September 1, 2013.

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