

By: Thompson of Harris

H.B. No. 1661

Substitute the following for H.B. No. 1661:

By: Raymond

C.S.H.B. No. 1661

A BILL TO BE ENTITLED

AN ACT

relating to child custody evaluations and adoption evaluations conducted and testimony provided in certain suits affecting the parent-child relationship; providing penalties; authorizing fees.

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

ARTICLE 1. CHILD CUSTODY EVALUATION

SECTION 1.01. Chapter 107, Family Code, is amended by adding Subchapter E to read as follows:

SUBCHAPTER E. CHILD CUSTODY EVALUATION

Sec. 107.101. DEFINITIONS. In this subchapter:

(1) "Child custody evaluation" means an evaluative process ordered by a court in a suit, except in a suit in which adoption is 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

1 (B) provided to:

2 (i) the court;

3 (ii) the parties to the suit;

4 (iii) the parties' attorneys; and

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

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

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

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

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

19 Sec. 107.102. APPLICABILITY. (a) For purposes of this
20 subchapter, a child custody evaluation does not include services
21 provided in accordance with the Interstate Compact on the Placement
22 of Children adopted under Subchapter B, Chapter 162.

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

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

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

2 (2) a party to the suit;

3 (3) the home of any person requesting conservatorship
4 of, possession of, or access to a child who is at issue in the suit;
5 or

6 (4) any issue or question relating to the suit and
7 requested by the court or agreed to by the parties to the suit
8 before or during the evaluation process.

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

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

12 (2) the purpose of the evaluation; and

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

15 (c) Except as provided by Section 107.106, each person who
16 conducts a child custody evaluation must be qualified under Section
17 107.105.

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

20 Sec. 107.104. REQUIREMENTS OF CHILD CUSTODY EVALUATION.

21 (a) A child custody evaluator shall:

22 (1) review relevant information obtained from
23 collateral sources;

24 (2) review relevant school records;

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

27 (4) review relevant records of the department,

1 including those maintained as part of the central registry
2 established under Section 261.002, and law enforcement agencies
3 relating to each child who is at issue in the suit, each party to the
4 suit, and each person who lives with a party to the suit;

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

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

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

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

19 (9) assess the relationship between each child at
20 issue in the suit and each party seeking possession of or access to
21 the child; and

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

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

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

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

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

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

9 (5) conduct valid and reliable psychometric testing;
10 or

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

13 Sec. 107.105. CHILD CUSTODY EVALUATOR: MINIMUM
14 QUALIFICATIONS. (a) In this section:

15 (1) "Full-time experience" means a period during which
16 a person works at least 30 hours per week.

17 (2) "Human services field of study" means a field of
18 study designed to prepare a person in the disciplined application
19 of counseling, family therapy, psychology, or social work values,
20 principles, and methods.

21 (b) To be qualified to conduct a child custody evaluation, a
22 person must:

23 (1) have at least a master's degree from an accredited
24 college or university in a human services field of study and a
25 license to practice in this state as a social worker, professional
26 counselor, marriage and family therapist, or psychologist and:

27 (A) after completing the degree required under

1 this subdivision, have two years of full-time experience or
2 equivalent part-time experience under professional supervision
3 during which the person performed functions involving the
4 evaluation of physical, intellectual, social, and psychological
5 functioning and needs and the potential of the social and physical
6 environment, both present and prospective, to meet those needs; and
7 (B) after obtaining the license required under
8 this subdivision, have participated in the performance of at least
9 10 court-ordered child custody evaluations under the supervision of
10 a person qualified under this section;

11 (2) have graduated from medical school and be licensed
12 to practice medicine in this state and board certified in
13 psychiatry and:

14 (A) after completing medical school, have two
15 years of full-time experience or equivalent part-time experience
16 under professional supervision during which the person performed
17 functions involving the evaluation of physical, intellectual,
18 social, and psychological functioning and needs and the potential
19 of the social and physical environment, both present and
20 prospective, to meet those needs; and

21 (B) after obtaining the license and
22 certification required under this subdivision, have participated
23 in the performance of at least 10 court-ordered child custody
24 evaluations under the supervision of a person qualified under this
25 section;

26 (3) meet the requirements of Subdivision (1)(A) or
27 (2)(A) and be practicing under the direct supervision of a person

1 qualified under this section to complete at least 10 court-ordered
2 child custody evaluations under supervision; or

3 (4) be employed by or under contract with a domestic
4 relations office, provided that the person conducts child custody
5 evaluations relating only to families ordered to participate in
6 child custody evaluations conducted by that office.

7 (c) In addition to the other qualifications prescribed by
8 this section, a person must complete at least eight hours of family
9 violence dynamics training provided by a family violence service
10 provider to be qualified to conduct a child custody evaluation.

11 (d) In addition to the other qualifications prescribed by
12 this section, a person who conducts a child custody evaluation as an
13 employee of or contractor with a domestic relations office must
14 meet any qualifications required by that office.

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

23 Sec. 107.107. PRIVATE CHILD CUSTODY EVALUATOR: SPECIALIZED
24 KNOWLEDGE. A private child custody evaluator must demonstrate to
25 the court that the evaluator has sufficient specialized knowledge,
26 education, and training to conduct a child custody evaluation. In
27 making that demonstration, the evaluator must demonstrate that the

1 evaluator has completed at least 40 hours of education and training
2 on the following topics:

3 (1) the psychological and developmental needs of a
4 child, specifically as those needs relate to decisions about
5 conservatorship of, possession of, and access to the child;

6 (2) family dynamics, including parent-child
7 relationships, blended families, and extended family
8 relationships;

9 (3) the effects of divorce, domestic violence, abuse
10 and neglect, substance abuse, and parental conflict on the
11 psychological and developmental needs of a child;

12 (4) interviewing and assessing adults, children, and
13 infants;

14 (5) gathering information from collateral sources;

15 (6) collecting and assessing data;

16 (7) recognizing the limits of the reliability and
17 validity of data;

18 (8) addressing issues relating to mental health,
19 medication use, and physical and learning disabilities;

20 (9) applying to all parties comparable interview,
21 assessment, and testing procedures that meet generally accepted
22 clinical, diagnostic, forensic, scientific, and professional
23 standards;

24 (10) consulting with additional experts as needed;

25 (11) assessing parenting capacity and constructing
26 effective parenting plans;

27 (12) ethical standards relating to a child custody

1 evaluator's professional license and other applicable professional
2 guidelines;

3 (13) the legal standards and processes applicable in a
4 suit;

5 (14) understanding the distinctions in the roles of
6 evaluator, mediator, therapist, consulting expert, testifying
7 expert, parenting coordinator, and parenting facilitator;

8 (15) writing reports and making recommendations;

9 (16) mandatory reporting requirements and limitations
10 on confidentiality;

11 (17) preparing for and testifying at a court
12 proceeding;

13 (18) maintaining professional neutrality and
14 objectivity when conducting a child custody evaluation; and

15 (19) the importance of assessing the health, safety,
16 welfare, and best interest of a child.

17 Sec. 107.108. CHILD CUSTODY EVALUATOR: CONFLICTS OF
18 INTEREST AND BIAS. (a) Before accepting appointment as a child
19 custody evaluator in a suit, a person must disclose to the court,
20 each attorney for a party to the suit, any attorney for a child who
21 is at issue in the suit, and any party to the suit who does not have
22 an attorney:

23 (1) any conflict of interest that the person believes
24 that the person has with a party to the suit or a child who is at
25 issue in the suit;

26 (2) any previous knowledge that the person has of a
27 party to the suit or a child who is at issue in the suit;

1 (3) any pecuniary relationship that the person
2 believes that the person has with an attorney in the suit;

3 (4) any relationship of confidence or trust that the
4 person believes that the person has with an attorney in the suit;
5 and

6 (5) any other information relating to the person's
7 relationship with an attorney in the suit that a reasonable,
8 prudent person would believe would affect the ability of the person
9 to act impartially in conducting a child custody evaluation.

10 (b) The court may not appoint a person as a child custody
11 evaluator in a suit if the person makes any of the disclosures in
12 Subsection (a) unless:

13 (1) the court finds that:

14 (A) the person has no conflict of interest with a
15 party to the suit or a child who is at issue in the suit;

16 (B) the person's previous knowledge of a party to
17 the suit or a child who is at issue in the suit is not relevant;

18 (C) the person does not have a pecuniary
19 relationship with an attorney in the suit; and

20 (D) the person does not have a relationship of
21 trust or confidence with an attorney in the suit; or

22 (2) the parties and any attorney for a child who is at
23 issue in the suit agree in writing to the person's appointment as
24 the child custody evaluator.

25 (c) After being appointed as a child custody evaluator in a
26 suit, a person shall immediately disclose to the court, each
27 attorney for a party to the suit, any attorney for a child who is at

1 issue in the suit, and any party to the suit who does not have an
2 attorney any discovery of:

3 (1) a conflict of interest that the person believes
4 that the person has with a party to the suit or a child who is at
5 issue in the suit; and

6 (2) previous knowledge that the person has of a party
7 to the suit or a child who is at issue in the suit.

8 (d) A person shall resign from the person's appointment as a
9 child custody evaluator in a suit if the person makes any of the
10 disclosures in Subsection (c) unless:

11 (1) the court finds that:

12 (A) the person has no conflict of interest with a
13 party to the suit or a child who is at issue in the suit; and

14 (B) the person's previous knowledge of a party to
15 the suit or a child who is at issue in the suit is not relevant; or

16 (2) the parties and any attorney for a child who is at
17 issue in the suit agree in writing to the person's continued
18 appointment as the child custody evaluator.

19 (e) A person may not be appointed as a child custody
20 evaluator in a suit if the person has worked in a professional
21 capacity with a party to the suit, a child who is at issue in the
22 suit, or a member of the party's or child's family who is involved in
23 the suit. This subsection does not apply to a person who has worked
24 in a professional capacity with a party, a child, or a member of the
25 party's or child's family only as a teacher of parenting skills in a
26 group setting. For purposes of this subsection, "family" has the
27 meaning assigned by Section 71.003.

1 Sec. 107.109. COMMUNICATIONS AND RECORDKEEPING OF CHILD
2 CUSTODY EVALUATOR. (a) Notwithstanding any rule, standard of
3 care, or privilege applicable to the professional license held by a
4 child custody evaluator, a communication made by a participant in a
5 child custody evaluation is subject to disclosure and may be
6 offered in any judicial or administrative proceeding, if otherwise
7 admissible under the rules of evidence.

8 (b) A child custody evaluator shall:

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

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

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

25 (d) Except for records obtained from the department in
26 accordance with Section 107.114, records relating to a child
27 custody evaluation conducted by an employee of or contractor with a

1 domestic relations office shall, after completion of the evaluation
2 and preparation of a child custody evaluation report under Section
3 107.110, be made available on written request according to the
4 local rules and policies of the office.

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

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

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

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

22 Sec. 107.110. CHILD CUSTODY EVALUATION REPORT REQUIRED.

23 (a) For each child custody evaluation, the child custody evaluator
24 who conducted the evaluation shall prepare a report containing the
25 evaluator's findings, opinions, recommendations, and answers to
26 specific questions asked by the court relating to the evaluation.

27 (b) A report prepared under this section must include the

1 name, license number, and basis for qualification of each child
2 custody evaluator who conducted any portion of the evaluation.

3 Sec. 107.111. GENERAL PROVISIONS APPLICABLE TO CONDUCT OF
4 CHILD CUSTODY EVALUATOR AND PREPARATION OF REPORT. (a) Unless
5 otherwise directed by a court or prescribed by this subchapter, a
6 child custody evaluator's actions in conducting a child custody
7 evaluation must be in conformance with the professional standard of
8 care applicable to the evaluator's licensure and any administrative
9 rules, ethical standards, or guidelines adopted by the licensing
10 authority that licenses the evaluator.

11 (b) In addition to the requirements prescribed by this
12 subchapter, a court may impose requirements or adopt local rules
13 applicable to a child custody evaluation or a child custody
14 evaluator.

15 (c) A child custody evaluator shall follow evidence-based
16 practice methods and make use of current best evidence in making
17 assessments and recommendations.

18 (d) A child custody evaluator shall disclose to each
19 attorney of record any communication regarding a substantive issue
20 between the evaluator and an attorney of record representing a
21 party in a disputed suit. This subsection does not apply to a
22 communication between a child custody evaluator and an amicus
23 attorney.

24 (e) To the extent possible, a child custody evaluator shall
25 conduct interviews and make observations in a balanced manner so
26 that if the evaluator interviews and observes a child at issue in
27 the suit while in the care of one party to the suit, the evaluator

1 also interviews and observes the child while in the care of the
2 other parties to the suit.

3 (f) To the extent possible, a child custody evaluator shall
4 verify each statement of fact pertinent to a child custody
5 evaluation and shall note the sources of verification and
6 information in the child custody evaluation report prepared under
7 Section 107.110.

8 (g) A child custody evaluator shall state the basis for and
9 the sources of the evaluator's conclusions or recommendations in
10 the child custody evaluation report prepared under Section 107.110.

11 (h) A child custody evaluation must be conducted in
12 compliance with this subchapter, regardless of whether the
13 evaluation is conducted by a single child custody evaluator or
14 multiple evaluators working separately or together.

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

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

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

27 (2) the 30th day before the date of the commencement of

1 the trial, if applicable.

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

10 (d) A trial in a suit in which a child custody evaluation is
11 conducted may not begin before the 30th day after the date the child
12 custody evaluator provides copies of the child custody evaluation
13 report as provided by this section unless the parties to the suit
14 agree to an earlier date.

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

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

1 subject to the child custody evaluation.

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

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

12 (d) A person commits an offense if the person discloses
13 confidential information obtained from the department in violation
14 of this section. An offense under this subsection is a Class A
15 misdemeanor.

16 ARTICLE 2. ADOPTION EVALUATION

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

19 SUBCHAPTER F. ADOPTION EVALUATION

20 Sec. 107.151. DEFINITIONS. In this subchapter:

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

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

27 (3) "Department" means the Department of Family and

1 Protective Services.

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

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

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

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

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

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

24 (1) a party to the suit; or

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

27 Sec. 107.153. ORDER FOR ADOPTION EVALUATION. (a) The court

1 shall order the performance of an adoption evaluation to evaluate
2 each party who requests termination of the parent-child
3 relationship or an adoption in a suit for:

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

7 (2) an adoption.

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

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

15 (d) Except as provided by Section 107.157, a person who
16 conducts an adoption evaluation must be qualified under Section
17 107.156.

18 Sec. 107.154. REQUIREMENTS FOR PRE-PLACEMENT PART OF
19 ADOPTION EVALUATION. (a) The costs of the pre-placement part of an
20 adoption evaluation in a suit for adoption must be paid by the
21 prospective adoptive parent.

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

27 Sec. 107.155. REQUIREMENTS FOR POST-PLACEMENT PART OF

1 ADOPTION EVALUATION. (a) An adoption evaluator shall file with the
2 court a report containing the person's findings and conclusions
3 made after a child who is at issue in the suit to which the subject
4 of the evaluation is a party begins residence in a prospective
5 adoptive home.

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

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

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

17 Sec. 107.156. ADOPTION EVALUATOR: MINIMUM QUALIFICATIONS.

18 (a) In this section:

19 (1) "Full-time experience" means a period during which
20 a person works at least 30 hours per week.

21 (2) "Human services field of study" means a field of
22 study designed to prepare a person in the disciplined application
23 of counseling, family therapy, psychology, or social work values,
24 principles, and methods.

25 (b) To be qualified to conduct an adoption evaluation, a
26 person must:

27 (1) have a degree from an accredited college or

1 university in a human services field of study and a license to
2 practice in this state as a social worker, professional counselor,
3 marriage and family therapist, or psychologist and:

4 (A) have one year of full-time experience working
5 at a child-placing agency conducting child-placing activities; or

6 (B) be practicing under the direct supervision of
7 a person qualified under this section to conduct adoption
8 evaluations;

9 (2) be employed by a domestic relations office,
10 provided that the person conducts adoption evaluations relating
11 only to families ordered to participate in adoption evaluations
12 conducted by the office; or

13 (3) be qualified as a child custody evaluator under
14 Section 107.105.

15 (c) In addition to the other qualifications prescribed by
16 this section, a person must complete at least eight hours of family
17 violence dynamics training provided by a family violence service
18 provider to be qualified to conduct an adoption evaluation.

19 Sec. 107.157. EXCEPTION TO QUALIFICATIONS REQUIRED TO
20 CONDUCT ADOPTION EVALUATION. If a court finds that a qualified
21 person is not available to conduct an adoption evaluation in the
22 county in which the court presides, the court may authorize a person
23 the court determines to be otherwise qualified to conduct the
24 evaluation.

25 Sec. 107.158. ADOPTION EVALUATOR: CONFLICTS OF INTEREST AND
26 BIAS. (a) Before accepting appointment as an adoption evaluator in
27 a suit, a person must disclose to the court, each attorney for a

1 party to the suit, any attorney for a child who is at issue in the
2 suit, and any party to the suit who does not have an attorney:

3 (1) any conflict of interest that the person believes
4 that the person has with a party to the suit or a child who is at
5 issue in the suit;

6 (2) any previous knowledge that the person has of a
7 party to the suit or a child who is at issue in the suit;

8 (3) any pecuniary relationship that the person
9 believes that the person has with an attorney in the suit;

10 (4) any relationship of confidence or trust that the
11 person believes that the person has with an attorney in the suit;
12 and

13 (5) any other information relating to the person's
14 relationship with an attorney in the suit that a reasonable,
15 prudent person would believe would affect the ability of the person
16 to act impartially in conducting an adoption evaluation.

17 (b) The court may not appoint a person as an adoption
18 evaluator in a suit if the person makes any of the disclosures in
19 Subsection (a) unless:

20 (1) the court finds that:

21 (A) the person has no conflict of interest with a
22 party to the suit or a child who is at issue in the suit;

23 (B) the person's previous knowledge of a party to
24 the suit or a child who is at issue in the suit is not relevant;

25 (C) the person does not have a pecuniary
26 relationship with an attorney in the suit; and

27 (D) the person does not have a relationship of

1 trust or confidence with an attorney in the suit; or

2 (2) the parties and any attorney for a child who is at
3 issue in the suit agree in writing to the person's appointment as
4 the adoption evaluator.

5 (c) After being appointed as an adoption evaluator in a
6 suit, a person shall immediately disclose to the court, each
7 attorney for a party to the suit, any attorney for a child who is at
8 issue in the suit, and any party to the suit who does not have an
9 attorney any discovery of:

10 (1) a conflict of interest that the person believes
11 that the person has with a party to the suit or a child who is at
12 issue in the suit; and

13 (2) previous knowledge that the person has of a party
14 to the suit or a child who is at issue in the suit.

15 (d) A person shall resign from the person's appointment as
16 an adoption evaluator in a suit if the person makes any of the
17 disclosures in Subsection (c) unless:

18 (1) the court finds that:

19 (A) the person has no conflict of interest with a
20 party to the suit or a child who is at issue in the suit; and

21 (B) the person's previous knowledge of a party to
22 the suit or a child who is at issue in the suit is not relevant; or

23 (2) the parties and any attorney for a child who is at
24 issue in the suit agree in writing to the person's continued
25 appointment as the adoption evaluator.

26 (e) A person may not be appointed as an adoption evaluator
27 in a suit if the person has worked in a professional capacity with a

1 party to the suit, a child who is at issue in the suit, or a member
2 of the party's or child's family who is involved in the suit. This
3 subsection does not apply to a person who has worked in a
4 professional capacity with a party, a child, or a member of the
5 party's or child's family only as a teacher of parenting skills in a
6 group setting. For purposes of this subsection, "family" has the
7 meaning assigned by Section 71.003.

8 Sec. 107.159. GENERAL PROVISIONS APPLICABLE TO CONDUCT OF
9 ADOPTION EVALUATOR AND PREPARATION OF REPORTS. (a) Unless
10 otherwise directed by a court or prescribed by this subchapter, an
11 adoption evaluator's actions in conducting an adoption evaluation
12 must be in conformance with the professional standard of care
13 applicable to the evaluator's licensure and any administrative
14 rules, ethical standards, or guidelines adopted by the licensing
15 authority that licenses the evaluator.

16 (b) In addition to the requirements prescribed by this
17 subchapter, a court may impose requirements or adopt local rules
18 applicable to an adoption evaluation or an adoption evaluator.

19 (c) An adoption evaluator shall follow evidence-based
20 practice methods and make use of current best evidence in making
21 assessments and recommendations.

22 (d) An adoption evaluator shall disclose to each attorney of
23 record any communication regarding a substantive issue between the
24 evaluator and an attorney of record representing a party in a
25 disputed suit. This subsection does not apply to a communication
26 between an adoption evaluator and an amicus attorney.

27 (e) To the extent possible, an adoption evaluator shall

1 verify each statement of fact pertinent to an adoption evaluation
2 and shall note the sources of verification and information in any
3 report prepared on the evaluation.

4 (f) An adoption evaluator shall state the basis for the
5 evaluator's conclusions or recommendations in any report prepared
6 on the evaluation.

7 (g) Any report prepared on an adoption evaluation must
8 include the name, license number, and basis for qualification of
9 each adoption evaluator who conducted any portion of the
10 evaluation.

11 Sec. 107.160. REPORTING CERTAIN PLACEMENTS FOR ADOPTION.
12 An adoption evaluator shall report to the department any adoptive
13 placement that appears to have been made by someone other than a
14 licensed child-placing agency or a child's parent or managing
15 conservator.

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

22 Sec. 107.162. PROSPECTIVE ADOPTIVE PARENTS ENTITLED TO
23 RECEIVE COPY OF ADOPTION EVALUATION REPORT. In a suit for adoption,
24 a copy of the report prepared under Section 107.161 must be made
25 available to the prospective adoptive parents before the court
26 renders a final order of adoption.

27 Sec. 107.163. INTRODUCTION AND PROVISION OF ADOPTION

1 EVALUATION REPORT AND TESTIMONY RELATING TO ADOPTION EVALUATION.

2 (a) Disclosure to the jury of the contents of an adoption
3 evaluation report prepared under Section 107.161 is subject to the
4 rules of evidence.

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

9 Sec. 107.164. ADOPTION EVALUATION FEE. If the court orders
10 an adoption evaluation to be conducted, the court shall award the
11 adoption evaluator a reasonable fee for the performance of the
12 evaluation that shall be imposed in the form of a money judgment and
13 paid directly to the evaluator. The evaluator may enforce the
14 judgment for the fee by any means available under law for civil
15 judgments.

16 Sec. 107.165. ADOPTION EVALUATOR ACCESS TO INVESTIGATIVE
17 RECORDS OF DEPARTMENT; OFFENSE. (a) An adoption evaluator is
18 entitled to obtain from the department a complete, unredacted copy
19 of any investigative record regarding abuse or neglect that relates
20 to any person residing in the residence subject to the adoption
21 evaluation.

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

27 (c) An adoption evaluator may disclose information obtained

1 under Subsection (a) in the adoption evaluation report prepared
2 under Section 107.161 only to the extent the evaluator determines
3 that the information is relevant to the adoption evaluation or a
4 recommendation made under this subchapter.

5 (d) A person commits an offense if the person discloses
6 confidential information obtained from the department in violation
7 of this section. An offense under this subsection is a Class A
8 misdemeanor.

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

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

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

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

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

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

26 (1) is appointed as the child's guardian ad litem or
27 attorney ad litem or is appointed as an amicus attorney under

1 Subchapter A, Chapter 107; or

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

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

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

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

13 SECTION 4.01. The heading to Chapter 107, Family Code, is
14 amended to read as follows:

15 CHAPTER 107. SPECIAL APPOINTMENTS, CHILD CUSTODY EVALUATIONS, AND
16 ADOPTION EVALUATIONS [~~AND SOCIAL STUDIES~~]

17 SECTION 4.02. Section 153.605(d), Family Code, is amended
18 to read as follows:

19 (d) An individual appointed as a parenting coordinator may
20 not serve in any nonconfidential capacity in the same case,
21 including serving as an amicus attorney, guardian ad litem, child
22 custody [~~or social study~~] evaluator, or adoption evaluator under
23 Chapter 107, as a friend of the court under Chapter 202, or as a
24 parenting facilitator under this subchapter.

25 SECTION 4.03. Section 162.0025, Family Code, is amended to
26 read as follows:

27 Sec. 162.0025. ADOPTION SOUGHT BY MILITARY SERVICE MEMBER.

1 In a suit for adoption, the fact that a petitioner is a member of the
2 armed forces of the United States, a member of the Texas National
3 Guard or the National Guard of another state, or a member of a
4 reserve component of the armed forces of the United States may not
5 be considered by the court, or any person performing an adoption
6 evaluation [~~a social study~~] or home screening, as a negative factor
7 in determining whether the adoption is in the best interest of the
8 child or whether the petitioner would be a suitable parent.

9 SECTION 4.04. Section 162.003, Family Code, is amended to
10 read as follows:

11 Sec. 162.003. ADOPTION EVALUATION [~~PRE-ADOPTIVE AND~~
12 ~~POST-PLACEMENT SOCIAL STUDIES~~]. In a suit for adoption, an
13 adoption evaluation [~~pre-adoptive and post-placement social~~
14 ~~studies~~] must be conducted as provided in Chapter 107.

15 SECTION 4.05. Section 162.0045, Family Code, is amended to
16 read as follows:

17 Sec. 162.0045. PREFERENTIAL SETTING. The court shall grant
18 a motion for a preferential setting for a final hearing on an
19 adoption and shall give precedence to that hearing over all other
20 civil cases not given preference by other law if the adoption
21 evaluation [~~social study~~] has been filed and the criminal history
22 for the person seeking to adopt the child has been obtained.

23 SECTION 4.06. Section 203.004(a), Family Code, is amended
24 to read as follows:

25 (a) A domestic relations office may:

26 (1) collect and disburse child support payments that
27 are ordered by a court to be paid through a domestic relations

1 registry;

2 (2) maintain records of payments and disbursements
3 made under Subdivision (1);

4 (3) file a suit, including a suit to:

5 (A) establish paternity;

6 (B) enforce a court order for child support or
7 for possession of and access to a child; and

8 (C) modify or clarify an existing child support
9 order;

10 (4) provide an informal forum in which alternative
11 dispute resolution is used to resolve disputes under this code;

12 (5) prepare a court-ordered child custody evaluation
13 or adoption evaluation [~~social study~~] under Chapter 107;

14 (6) represent a child as an amicus attorney, an
15 attorney ad litem, or a guardian ad litem in a suit in which:

16 (A) termination of the parent-child relationship
17 is sought; or

18 (B) conservatorship of or access to a child is
19 contested;

20 (7) serve as a friend of the court;

21 (8) provide predivorce counseling ordered by a court;

22 (9) provide community supervision services under
23 Chapter 157;

24 (10) provide information to assist a party in
25 understanding, complying with, or enforcing the party's duties and
26 obligations under Subdivision (3);

27 (11) provide, directly or through a contract,

1 visitation services, including supervision of court-ordered
2 visitation, visitation exchange, or other similar services;

3 (12) issue an administrative writ of withholding under
4 Subchapter F, Chapter 158; and

5 (13) provide parenting coordinator services under
6 Chapter 153.

7 SECTION 4.07. Section 203.005(a), Family Code, is amended
8 to read as follows:

9 (a) The administering entity may authorize a domestic
10 relations office to assess and collect:

11 (1) an initial operations fee not to exceed \$15 to be
12 paid to the domestic relations office on each filing of an original
13 suit, motion for modification, or motion for enforcement;

14 (2) in a county that has a child support enforcement
15 cooperative agreement with the Title IV-D agency, an initial child
16 support service fee not to exceed \$36 to be paid to the domestic
17 relations office on the filing of an original suit;

18 (3) a reasonable application fee to be paid by an
19 applicant requesting services from the office;

20 (4) a reasonable attorney's fee and court costs
21 incurred or ordered by the court;

22 (5) a monthly service fee not to exceed \$3 to be paid
23 annually in advance by a managing conservator and possessory
24 conservator for whom the domestic relations office provides child
25 support services;

26 (6) community supervision fees as provided by Chapter
27 157 if community supervision officers are employed by the domestic

1 relations office;

2 (7) a reasonable fee for preparation of a
3 court-ordered child custody evaluation or adoption evaluation
4 [~~social study~~];

5 (8) in a county that provides visitation services
6 under Sections 153.014 and 203.004 a reasonable fee to be paid to
7 the domestic relations office at the time the visitation services
8 are provided;

9 (9) a fee to reimburse the domestic relations office
10 for a fee required to be paid under Section 158.503(d) for filing an
11 administrative writ of withholding;

12 (10) a reasonable fee for parenting coordinator
13 services; and

14 (11) a reasonable fee for alternative dispute
15 resolution services.

16 SECTION 4.08. Section 411.1285(c), Government Code, is
17 amended to read as follows:

18 (c) Criminal history record information requested under
19 this section, including information included in a report of a child
20 custody evaluation or adoption evaluation [~~social study~~] filed
21 under Chapter 107 [~~Section 107.054~~], Family Code, may not be
22 released or disclosed by a domestic relations office to a person
23 other than the court ordering the child custody evaluation or
24 adoption evaluation [~~social study~~] except on court order or with
25 the consent of the person who is the subject of the criminal history
26 record information.

27 SECTION 4.09. Section 152.06331(f), Human Resources Code,

1 is amended to read as follows:

2 (f) Fees for the preparation of a court-ordered child
3 custody evaluation or adoption evaluation [~~social study~~] or any
4 other services provided by the domestic relations office, other
5 than services related to the collection of child support, must be
6 reasonable and imposed on a sliding scale according to the
7 financial resources of the parties using the services.

8 ARTICLE 5. REPEALER

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

11 ARTICLE 6. TRANSITION AND EFFECTIVE DATE

12 SECTION 6.01. (a) Not later than September 1, 2014, the
13 Texas State Board of Examiners of Psychologists, the Texas State
14 Board of Examiners of Professional Counselors, the Texas State
15 Board of Social Worker Examiners, the Texas State Board of
16 Examiners of Marriage and Family Therapists, and the Texas Medical
17 Board shall adopt any rules necessary for license holders to comply
18 with the requirements of Subchapters E and F, Chapter 107, Family
19 Code, as added by this Act, and specifying that a person licensed by
20 any of the boards is subject to the rules of the board that licensed
21 the person when appointed by a court to conduct a child custody
22 evaluation or adoption evaluation under Subchapter E or F, Chapter
23 107, Family Code, as added by this Act. The rules adopted under this
24 subsection must:

25 (1) specify that any complaints relating to the
26 outcome of a child custody evaluation or adoption evaluation
27 conducted by a person licensed by any of the boards must be reported

1 to the court that ordered the evaluation instead of to the board
2 that licensed the person; and

3 (2) require that license holders receive notice that
4 the disclosure of confidential information in violation of Section
5 107.114 or 107.165, Family Code, as added by this Act, is grounds
6 for disciplinary action.

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

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

27 (d) Not later than September 1, 2014, the executive

1 commissioner of the Health and Human Services Commission shall
2 adopt any rules necessary to implement Subchapter F, Chapter 107,
3 Family Code, as added by this Act. Subchapter F, Chapter 107,
4 Family Code, as added by this Act, applies to an adoption evaluation
5 ordered by a court on or after September 1, 2014, or the date the
6 executive commissioner adopts rules under this subsection,
7 whichever occurs first. An adoption evaluation, pre-adoptive
8 social study, or post-placement adoptive social study ordered by a
9 court before that date is governed by the law in effect immediately
10 before the effective date of this Act, and the former law is
11 continued in effect for that purpose.

12 SECTION 6.02. Notwithstanding any other law, a person shall
13 be qualified to conduct a child custody evaluation under Section
14 107.105(b)(1) or (2), Family Code, as added by this Act, or an
15 adoption evaluation under Section 107.156(b)(3), Family Code, as
16 added by this Act, without satisfying the supervision requirements
17 of Section 107.105(b)(1)(B) or (2)(B) if, on or before the
18 effective date of this Act, the person completes at least 10 social
19 studies or other child custody evaluations ordered by a court in
20 suits affecting the parent-child relationship.

21 SECTION 6.03. The changes in law made by this Act apply to a
22 suit affecting the parent-child relationship that is pending in a
23 court on the effective date of this Act or that is filed on or after
24 that date.

25 SECTION 6.04. This Act takes effect September 1, 2013.