

## **BILL ANALYSIS**

Senate Research Center  
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S.B. 820  
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### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Typically, a court will order a "social study" to assist the fact finder with information on a child, including making recommendations on adoption, custody, and possession and access to the child. These are also known as "child custody evaluations." Courts make orders for such studies not only in cases involving Child Protective Services, but also in private child custody litigation.

Child custody evaluators who perform these studies are given an extreme amount of authority to make recommendations that dramatically affect Texas families. However, the qualifications to become an evaluator are low considering the importance of the decision being made. Evaluators need only have only a bachelor's degree and a license in the human services field. Further, there are not uniform standards for the report produced and few conflict of interest rules exist.

S.B. 820 raises the required evaluator qualification to a master's degree and above, and standardizes the guidelines for the professionals who assist the court by performing these evaluations. The bill limits the testimony of mental health professionals who have not conducted a custody evaluation from offering opinions about those matters in court pursuant to the professional's rules. (Certain exemptions are provided for county domestic relations offices and counties with populations under 500,000.)

The bill also standardizes language used by changing the term "social study" to "child custody evaluation."

Finally, the bill moves all provisions related to evaluations for adoption purposes to a new section of the Family Code, without substantive change.

As proposed, S.B. 820 amends current law relating to child custody evaluations and adoption evaluations conducted and testimony provided in certain suits affecting the parent-child relationship, provides penalties, creates an offense, and authorizing fees.

### **RULEMAKING AUTHORITY**

Rulemaking authority previously granted to the executive commissioner of the Health and Human Service Commission is rescinded in SECTION 1.06 (Section 107.104, Family Code) of this bill.

Rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 1.17 (Sections 107.152, 107.159, and 107.160 Family Code) of this bill.

Rulemaking authority is expressly granted to the court (relating to the district court, juvenile court having the same jurisdiction as a district court, or other court expressly given jurisdiction of a suit affecting the parent-child relationship) in SECTION 1.17 (Section 107.158, Family Code) of this bill.

Rulemaking authority is expressly granted to the Texas State Board of Examiners of Psychologists in SECTION 5.01 of this bill.

Rulemaking authority is expressly granted to the Texas State Board of Examiners of Professional Counselors in SECTION 5.01 of this bill.

Rulemaking authority is expressly granted to the Texas State Board of Social Worker Examiners in SECTION 5.01 of this bill.

Rulemaking authority is expressly granted to the Texas State Board of Examiners of Marriage and Family Therapists in SECTION 5.01 of this bill.

Rulemaking authority is expressly granted to the Texas Medical Board in SECTION 5.01 of this bill.

## **SECTION BY SECTION ANALYSIS**

### ARTICLE 1. CHILD CUSTODY EVALUATION AND ADOPTION EVALUATION

SECTION 1.01. Amends the heading to Chapter 107, Family Code, to read as follows:

#### CHAPTER 107. SPECIAL APPOINTMENTS, CHILD CUSTODY EVALUATIONS, AND ADOPTION EVALUATIONS

SECTION 1.02. Amends the heading to Subchapter D, Chapter 107, Family Code, to read as follows:

#### SUBCHAPTER D. CHILD CUSTODY EVALUATION

SECTION 1.03. Redesignates Section 107.0501, Family Code, as Section 107.101, Family Code, and amends it, as follows:

Sec. 107.101. DEFINITIONS. Redesignates Section 107.0501, Family Code, as Section 107.101, Family Code. Redefines "child custody evaluation" and "child custody." Defines "department," "person," "private child custody evaluator," and "supervision." Deletes definitions for "social study" and "social study evaluator."

SECTION 1.04. Amends Subchapter D, Chapter 107, Family Code, by adding Section 107.102, as follows:

Sec. 107.102. APPLICABILITY. (a) Provides that 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 (Interstate Compact on the Placement of Children), Chapter 162, or an evaluation conducted in accordance with Section 262.114 (Evaluation of Identified Relatives and Other Designated Individuals; Placement) by an employee of or contractor with the Department of Family and Protective Services (DFPS).

(b) Provides that home studies and other evaluations by DFPS are not required to comply with this subchapter.

(c) Provides that DFPS is not required to obtain a child custody evaluation in cases in which DFPS is a party and pay for any part of the cost of a child custody evaluation in a case in which DFPS is a party, unless DFPS requests the child custody evaluation.

SECTION 1.05. Redesignates Section 107.051, Family Code, as Section 107.103, Family Code, and amends it, as follows:

Sec. 107.103. New heading: ORDER FOR CHILD CUSTODY EVALUATION. Redesignates Section 107.051, Family Code, as Section 107.103, Family Code. (a) Authorizes the court (relating to the district court, juvenile court having the same jurisdiction as a district court, or other court expressly given jurisdiction of a suit

affecting the parent-child relationship), after notice and hearing, to order the preparation of a child custody evaluation regarding:

(1) the circumstances and conditions of a child who is the subject of a suit, a party to a suit, and the residence of any person requesting conservatorship of, possession of, or access to a child who is the subject of the suit, rather than authorizes the court to order the preparation of a social study into the circumstances and conditions of a child who is the subject of a suit or a party to a suit, and the home of any person requesting conservatorship of, possession of, or access to a child; and

(2) any issue or question relating to the suit at the request of the court before or during the evaluation process.

(b) Prohibits the court from appointing a child custody evaluator in a suit involving a nonparent seeking conservatorship of a child unless, after notice and hearing, the court finds that good cause has been shown for the appointment of a child custody evaluator. Deletes existing text authorizing the social study to be made by a private entity, a person appointed by the court, a domestic relations office, or a state agency, including DFPS if DFPS is a party to the suit.

(c) Requires that an order for a child custody evaluation 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.

Deletes existing text requiring the court, in a suit in which adoption is requested or conservatorship of, possession of, or access to a child is an issue and in which a social study has been ordered and DFPS is not a party, to appoint a private agency, another person, or a domestic relations office to conduct the social study.

(d) Requires each individual who conducts a child custody evaluation, except as provided by Section 107.106, to be qualified under Section 107.104, rather than requires each individual who conducts a social study, except as provided by Section 107.0511(b), to be qualified under Section 107.0511.

Makes nonsubstantive changes.

SECTION 1.06. Redesignates Section 107.0511, Family Code, as Section 107.104, Family Code, and amends it, as follows:

Sec. 107.104. New heading: CHILD CUSTODY EVALUATOR: MINIMUM QUALIFICATIONS. Redesignates Section 107.0511, Family Code, as Section 107.104, Family Code. (a) Makes no change to this subsection.

(b) Redesignates existing Subsection (d) as Subsection (b). Requires an individual, to be qualified to conduct a child custody evaluation, rather than a social study, to:

(1) have at least a master's degree, rather than have a bachelor's degree, from an accredited college or university in a human services field of study and a license to practice in this state as a social worker, professional counselor, marriage and family therapist, or psychologist, or have a license to practice medicine in this state and a board certification in psychiatry and:

(A) after completing the degree required by this subdivision, if applicable, have two years of full-time experience or equivalent part-time experience under professional supervision during which the individual performed functions involving the evaluation of physical, intellectual, social, and psychological functioning and needs and developed an understanding of the social and physical environment, rather than the potential social and physical environment, both present and prospective, to meet those needs; and

(B) after obtaining a license required by this subdivision, have performed at least 10 court-ordered child custody evaluations, rather than have participated in the performance of at least 10 court-ordered social studies, under the supervision of an individual qualified under this section;

(2) changes a reference to social studies to child custody evaluations; or

(3) be employed by or under contract with a domestic relations office, provided that the individual conducts child custody evaluations, rather than social studies, relating only to families ordered by a court to participate in child custody evaluations, rather than social studies, conducted by the domestic relations office.

(c) Redesignates existing Subsection (f) as Subsection (c) and makes a conforming change.

Deletes existing Subsection (b) text providing the minimum qualifications prescribed by this section do not apply to an individual conducting a social study and sets forth those qualifications that do not apply to an individual conducting a social study. Deletes existing Subsection (c) text requiring the executive commissioner of Health and Human Services to adopt rules prescribing the minimum qualifications that an individual described by Subsection (b)(3) or (4) must possess in order to conduct a social study under this subchapter. Deletes existing Subsection (e) authorizing the court, if an individual meeting the requirements of this section is not available in the county served by the court, to authorize an individual determined by the court to be otherwise qualified to conduct the social study. Deletes existing Subsection (g) providing that the minimum qualifications prescribed by this section do not apply to an individual who, before September 1, 2007, meet certain requirements and sets forth the requirements for an individual for which the minimum qualifications prescribed by this section that do not apply to. Deletes existing Subsection (h) requiring a person described by Subsection (g) who performs a social study to meet certain requirements and sets forth those requirements. Deletes existing Subsection (i) providing that Subsections (g) and (h) and this subsection expire September 1, 2017.

SECTION 1.07. Amends Subchapter D, Chapter 107, Family Code, by adding Sections 107.105 and 107.106, as follows:

Sec. 107.105. CHILD CUSTODY EVALUATION: SPECIALIZED TRAINING REQUIRED. (a) Requires the court to determine whether the qualifications of a child custody evaluator satisfy the requirements of this subchapter.

(b) Requires a child custody evaluator to demonstrate, if requested, appropriate knowledge and competence in child custody evaluation services consistent with professional models, standards, and guidelines.

Sec. 107.106. EXCEPTION TO QUALIFICATIONS REQUIRED TO CONDUCT CHILD CUSTODY EVALUATION. Authorizes the court, in a county with a population

of less than 500,000, if a court finds that an individual who meets the requirements of Section 107.104 is not available in the county to conduct a child custody evaluation in a timely manner, after notice and hearing, to appoint an individual the court determines to be otherwise qualified to conduct the evaluation if the parties to the suit agree to the appointment in writing.

SECTION 1.08. Redesignates Section 107.0512, Family Code, as Section 107.107, Family Code, and amends it, as follows:

Sec. 107.107. New heading: CHILD CUSTODY EVALUATOR: CONFLICTS OF INTERESTS AND BIAS. Redesignates Section 107.0512, Family Code, as Section 107.107, Family Code. (a) Requires a person, before accepting appointment as a child custody evaluator in a suit, to disclose to the court, each attorney for a party to the suit, any attorney for a child who is the subject of the suit, and any party to the suit who does not have an attorney:

- (1) any conflict of interest that the person believes the person has with any party to the suit or a child who is the subject of the suit;
- (2) any previous knowledge that the person has of a party to the suit or a child who is the subject of the suit, other than knowledge obtained in a court-ordered evaluation;
- (3) any pecuniary relationship that the person believes the person has with an attorney in the suit;
- (4) any relationship of confidence or trust that the person believes the person has with an attorney in the suit; and
- (5) any other information relating to the person's relationship with an attorney in the suit that a reasonable, prudent person would believe would affect the ability of the person to act impartially in conducting a child custody evaluation.

Deletes existing text requiring a social study evaluator, who has a conflict of interest with any party in a disputed suit or who may be biased on the basis of previous knowledge, other than knowledge obtain in a court-ordered evaluation, to decline to conduct a social study for the suit or disclose any issue or concern to the court before accepting appointment or assignment.

(b) Prohibits the court from appointing a person as a child custody evaluator in a suit if the person makes any of the disclosures in Subsection (a) unless:

- (1) the court finds that the person meets certain requirements and sets forth those requirements;
- (2) the parties and any attorney for a child who is the subject of the suit agree in writing to the person's appointment as the child custody evaluator.

(c) Requires a person, after being appointed as a child custody evaluator in a suit, to immediately disclose to the court, each attorney for a party to the suit, any attorney for a child who is the subject of the suit, and any party to the suit who does not have an attorney any discovery of:

- (1) a conflict of interest that the person believes the person has with a party to the suit or a child who is the subject of the suit; and
- (2) previous knowledge that the person has of a party to the suit or a child who is the subject of the suit, other than knowledge obtained in a court-ordered evaluation.

(d) Requires a person to resign from the person's appointment as a child custody evaluator in a suit if the person makes any of the disclosures in Subsection (c) unless:

(1) the court finds that the person has no conflict of interest with a party to the suit or a child who is the subject of the suit and the person's previous knowledge of a party to the suit or a child who is the subject of the suit is not relevant; or

(2) the parties and any attorney for a child who is the subject of the suit agree in writing to the person's continued appointment as the child custody evaluator.

(e) Creates this subsection from existing text. Authorizes a child custody evaluator, rather than social study evaluator, who has previously conducted a child custody evaluation, rather than a social study, for a suit to conduct all subsequent evaluations in the suit unless the court finds that the evaluator is biased.

(f) 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 the subject of the suit, or a member of the party's or child's family who is involved in the suit. Provides that this subsection does not apply to a person who has worked in a professional capacity with a party, a child, or a member of the party's or child's family only as a teacher of parenting skills in a group setting, with no individualized interaction with any party, the child, any party's family, or the child's family, or as a child custody evaluator who performed a previous evaluation. Defines "family" for the purposes of the subsection.

Deletes existing Subsection (c) providing that this section does not prohibit a court from appointing an employee of DFPS to conduct a social study in a suit in which adoption is requested or possession of or access to a child is an issue and in which DFPS a party or has an interest.

SECTION 1.09. Redesignates Section 107.0513, Family Code, as Section 107.108, Family Code, and amends it, as follows:

Sec. 107.108. New heading: GENERAL PROVISIONS APPLICABLE TO CONDUCT OF CHILD CUSTODY EVALUATION AND PREPARATION OF REPORT. Redesignates Section 107.0513, Family Code, as Section 107.108, Family Code. (a) Requires a child custody evaluator's actions, rather than a social study evaluator's actions, in conducting a child custody evaluation, rather than a social study, unless otherwise directed by a court or prescribed by a provision of this title, to be in conformance with the professional standard of care applicable to the evaluator's licensure and any administrative rules, ethical standards, or guidelines adopted by the licensing authority, rather than state agency, that licenses the evaluator.

(b) Authorizes a court to impose requirements or adopt local rules applicable to a child custody evaluation or a child custody evaluator that do not conflict with this subchapter, rather than authorizes a court, in addition to the requirements prescribed by this subchapter, to impose requirements or adopt local rules applicable to a social study or a social study evaluator.

(c) Changes a reference to a social study evaluator to a child custody evaluator.

(d) Changes references to a social study evaluator to a child custody evaluator and changes a reference to a disputed suit to a contested suit.

(e) Requires a child custody evaluator, rather than social study evaluator, to the extent possible, to verify each statement of fact pertinent to a child custody evaluation, rather than social study, and to note the sources of verification and information in the child custody evaluation report prepared under Section 107.113.

(f) Requires a child custody evaluator, rather than social study evaluator, to state the basis for the evaluator's conclusions or recommendations, and the extent to which information obtained limits the reliability and validity of the opinion and the conclusions and recommendations of the evaluator, in the child custody evaluation report prepared under Section 107.113. Requires a child custody evaluator, rather than social study evaluator, who has evaluated only one side of a contested suit, rather than disputed case, to refrain from making a recommendation regarding conservatorship of a child or possession of or access to a child, but is authorized state whether any information obtained regarding a child's placement with a party indicates concerns for the safety of the child or the party's apparent parenting skills or capability, rather than is authorized to state whether the party evaluated appears to be suitable for conservatorship.

(g) Requires that a child custody evaluation, rather than requires that each social study subject to this subchapter, be conducted in compliance with this subchapter, regardless of whether the child custody evaluation, rather than study, is conducted:

(1) Changes a reference to social study evaluator to social study evaluator;  
or

(2) Makes no change to this subdivision.

(h) Requires that a child custody evaluation report include for each child custody evaluator who conducted any portion of the child custody evaluation the name and license number of the child custody evaluator and a statement that the child custody evaluator meets the requirements of Section 107.104 or was appointed under Section 107.106, rather than requiring that a social study report to include the name, license number, and basis for qualification under Section 107.0511 of each social study evaluator who conducts any portion of the social study.

SECTION 1.10. Redesignates Section 107.0514, Family Code, as Section 107.109, Family Code, and amends it, as follows:

Sec. 107.109. New heading: ELEMENTS OF CHILD CUSTODY EVALUATION. Redesignates Section 107.0514, Family Code, as Section 107.109, Family Code. (a) Prohibits a child custody evaluator from offering an opinion regarding conservatorship of a child who is the subject of a suit or possession of or access to the child unless each basic element of a child custody evaluation as described by this section has been completed.

(b) Requires a child custody evaluator to:

(1) identify in the report required by Section 107.113 any basic element or any additional element of a child custody evaluation described by this section that was not completed;

(2) explain the reasons the element was not completed; and

(3) include an explanation of the likely effect of the missing element on the confidence the child custody evaluator has in the evaluator's expert opinion.

(c) Creates this subsection from existing text. Provides that the basic elements of a child custody evaluation, rather than social study, under this subchapter consist of:

- (1) Makes no change to this subdivision;
- (2) an interview, conducted in a developmentally appropriate manner, of each child who is the subject of the suit, and is at least four years of age, in the presence of each party to the suit, rather than each child at issue in the suit and who is at least four years of age;
- (3) observation of each child who is the subject of the suit, rather than at issue in the suit, regardless of the age of the child, in the presence of each party to the suit, unless contact between a party and a child is prohibited by court order or the person conducting the evaluation has good cause for not conducting the observation and states the good cause in writing provided to the parties to the suit before the completion of the evaluation;
- (4) an interview and observation of any child who is not a subject of the suit who lives on a full-time basis in the residence that is the subject of the evaluation;
- (5) the obtaining of information by reviewing relevant collateral sources, including certain relevant records and sets forth those relevant records to be used;
- (6) Redesignates existing Subdivision (5) text as Subdivision (6) and makes conforming changes;
- (7) Redesignates existing Subdivision (6) text as Subdivision (7) and makes conforming and nonsubstantive changes, and adds a reference to criminal history record information;
- (8) Redesignates existing Subdivision (7) text as Subdivision (8) and makes a conforming change.

(d) Provides that the additional elements of a child custody evaluation, rather than a social study, under this subchapter consist of:

- (1) balanced interviews and observation of each child who is the subject of the suit, rather than the of each child at issue in the suit, so that a child who is interviewed or observed while in the care of one party to the suit is also interviewed or observed while in the care of each other party to the suit;
- (2) an interview of each individual, including a child, residing on a full-time or part-time basis in a residence subject to the child custody evaluation, rather than to the social study;
- (3) evaluation of the home environment of each party seeking conservatorship of a child who is the subject of the suit, rather than the child at issue in the suit, or possession of or access to the child, regardless of whether the home environment is in dispute;
- (4) observation of each party to the suit with each child who is the subject of 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 conducting the observation and states the good cause in writing provided to the parties to the suit before the completion of the evaluation;

(5) observation of a child who is the subject of the suit with each adult and child who reside on a full-time or part-time basis in the residence that is the subject of the evaluation; and

(6) the performance of other tasks requested of the evaluator by the court, including a joint interview of the parties to the suit or the review of any other information that the court determines is relevant.

Makes nonsubstantive changes.

Deletes existing Subsection (c) prohibiting a social study evaluator from offering an opinion regarding conservatorship of a child at issue in a suit or possession of or access to the child unless each basic element of a social study under Subsection (a) has been completed. Deletes existing text requiring a social study evaluator to identify in the report any additional element of a social study under Subsection (b) that was not completed and to explain the reasons that the element was not completed.

SECTION 1.11. Amends Subchapter D, Chapter 107, Family Code, by adding Section 107.110, as follows:

Sec. 107.110. PSYCHOMETRIC TESTING. (a) Authorizes a child custody evaluator to conduct psychometric testing as part of a child custody evaluation if:

(1) ordered by the court or determined necessary by the child custody evaluator; and

(2) the child custody evaluator is appropriately licensed and trained to administer and interpret the specific psychometric tests selected and trained in the specialized forensic application of psychometric testing.

(b) Provides that selection of a specific psychometric test is at the professional discretion of the child custody evaluator based on the specific issues raised in the suit.

SECTION 1.12. Redesignates Section 107.05145, Family Code, as Section 107.111, Family Code, and amends it, as follows:

Sec. 107.111. New heading: CHILD CUSTODY EVALUATOR ACCESS TO INVESTIGATIVE RECORDS OF DEPARTMENT; OFFENSE. Redesignates Section 107.05145, Family Code, as Section 107.111, Family Code. (a) Entitles a child custody evaluator, rather than social study evaluator, appointed by a court 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, rather than social study. Makes a nonsubstantive change.

(b) Changes a reference to a social study evaluator to a child custody evaluator and makes a nonsubstantive change.

(c) Changes references to a social study evaluator to child custody evaluator and adds reference to a report prepared under Section 107.113.

(d) Provides that a person commits an offense if the person knowingly discloses confidential information obtained from DFPS in violation of this section. Makes a nonsubstantive change.

SECTION 1.13. Amends Subchapter D, Chapter 107, Family Code, by adding Section 107.112, as follows:

Sec. 107.112. COMMUNICATIONS AND RECORDKEEPING OF CHILD CUSTODY EVALUATOR. (a) Provides that, 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) Requires a child custody evaluator to 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 maintain the evaluator's records consistent with applicable laws, including rules.

(c) Requires a private child custody evaluator, except for records obtained from DFPS in accordance with Section 107.111, after completion of an evaluation and preparation of a child custody evaluation report under Section 107.113, to 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) Requires that records relating to a child custody evaluation conducted by an employee of or contractor with a domestic relations office, except for records obtained from DFPS in accordance with Section 107.111, after completion of the evaluation and preparation of a child custody evaluation report under Section 107.113, be made available on written request according to the local rules and policies of the office.

(e) Authorizes a person maintaining records subject to disclosure under this section to charge a reasonable fee for producing the records before copying the records.

(f) Requires a private child custody evaluator to retain all records relating to a child custody evaluation conducted by the evaluator until the ending date of the retention period adopted by the licensing authority that issues the professional license held by the evaluator.

(g) Requires a domestic relations office to 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) Provides that a person who participates in a child custody evaluation is not a patient as that term is defined by Section 611.001(1) (defining "patient"), Health and Safety Code.

SECTION 1.14. Redesignates Section 107.054, Family Code, as Section 107.113, Family Code, and amends it, as follows:

Sec. 107.113. New heading: CHILD CUSTODY EVALUATION REPORT REQUIRED. Redesignates Section 107, Family Code, as Section 107.113, Family Code. (a) Requires a child custody evaluator who conducts a child custody evaluation to prepare and file a report containing the evaluator's findings, opinions, recommendations, and answers to specific questions asked by the court relating to the evaluation.

(b) Requires the person conducting a child custody evaluation, rather than the agency or person making the social study, to file with the court on a date set by the court a report containing the person's findings and conclusions. Requires that the report be made a part of the record of the suit. Makes a nonsubstantive change.

(c) Provides that, if the suit is settled before completion of the child custody evaluation report, the report under this section is not required.

(d) Requires that a report under this section include the information required by Section 107.108(h) for each child custody evaluator who conducted any portion of the evaluation.

SECTION 1.15. Redesignates Section 107.055, Family Code, as Section 107.114, Family Code, and amends it, as follows:

Sec. 107.114. New heading: INTRODUCTION AND PROVISION OF CHILD CUSTODY EVALUATION REPORT. Redesignates Section 107.055, Family Code, as Section 107.114, Family Code. (a) Provides that disclosure to the jury of the contents of a child custody evaluation report prepared under Section 107.113, rather than disclosure to the jury of the contents of a report to the court of a social study, is subject to the rules of evidence.

(b) Requires a private child custody evaluator, unless the court has rendered an order restricting disclosure, to 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 a suit a copy of the child custody evaluation report before the earlier of the third day after the date the child custody evaluation report is completed or the 30th day before the date of commencement of the trial. Deletes existing text requiring the agency or person making the social study to furnish copies, in a contested case, of the report to the attorneys for the parties before the earlier of the seventh day after the date the social study is completed or the fifth day before the date of commencement of the trial.

(c) Requires a child custody evaluator who conducts a child custody evaluation as an employee of or under contract with a domestic relations office to provide 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 before the earlier of the seventh day after the date the child custody evaluation report is completed or the fifth day before the date the trial commences.

(d) Requires a child custody evaluator who conducts a child custody evaluation as an employee of or under contract with a domestic relations office to provide a copy of the report to a party to the suit as provided by the local rules and policies of the office or by a court order. Deletes existing text authorizing the court to compel the attendance of witnesses necessary for the proper disposition of the suit, including a representative of the agency making the social study, who may be compelled to testify.

SECTION 1.16. Redesignates Section 107.056, Family Code, as Section 107.115, Family Code, and amends it, as follows:

Sec. 107.115. New heading: CHILD CUSTODY EVALUATION FEE. Redesignates Section 107.056, Family Code, as Section 107.115, Family Code. Requires the court, if the court order a child custody evaluation to be conducted, to award the person appointed as the child custody evaluator a reasonable fee for the preparation of the child custody evaluation that shall be imposed in the form of a money judgment and paid directly to the person, rather than requires the court, if the court orders a social study to be conducted, to award the agency or other person a reasonable fee for the preparation of the study that shall be imposed in the form of a money judgment and paid directly to the agency or other person. Authorizes the person, rather than person or agency, to enforce the judgment for the fee by any means available under law for civil judgments.

SECTION 1.17. Amends Chapter 107, Family Code, by adding Subchapters E and F, as follows:

#### SUBCHAPTER E. ADOPTION EVALUATION

Sec. 107.151. DEFINITIONS. Defines "adoption evaluation," "adoption evaluator," "department," and "supervision."

Sec. 107.152. APPLICABILITY. (a) Provides that, for the 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, or an evaluation conducted in accordance with Section 262.114 by an employee of or contractor with DFPS.

(b) Provides that 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 DFPS.

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

(d) Requires a licensed child-placing agency or DFPS, in a suit involving a licensed child-placing agency or DFPS, to 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.

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

Sec. 107.153. ORDER FOR ADOPTION EVALUATION. (a) 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:

(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) Requires that the adoption evaluation under Subsection (a) 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) Authorizes the court to appoint a qualified individual, a qualified private entity, or a domestic relations office to conduct the adoption evaluation.

(d) Requires a person who conducts an adoption evaluation, except as provided by Section 107.155, to meet the requirements of Section 107.154.

(e) Requires that the costs of an adoption evaluation under this section be paid by the prospective adoptive parent.

Sec. 107.154. ADOPTION EVALUATOR: MINIMUM QUALIFICATIONS. (a) Defines "full-time experience" and "human services field of study."

(b) Requires a person, to be qualified to conduct an adoption evaluation under this subchapter, to meet certain requirements and sets forth the requirements for a person to be qualified to conduct an adoption evaluation.

(c) Requires an individual, in addition to the other qualifications prescribed by this section, to complete at least eight hours of family violence dynamics training

provided by a family violence service provider to be qualified to conduct an adoption evaluation under this subchapter.

Sec. 107.155. EXCEPTION TO QUALIFICATIONS REQUIRED TO CONDUCT ADOPTION EVALUATION. Authorizes the court, in a county with a population of less than 500,000, if a court finds that an individual who meets the requirements of Section 107.154 is not available in the county to conduct an adoption evaluation in a timely manner, after notice and hearing, to appoint 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. 107.156. ADOPTION EVALUATOR: CONFLICTS OF INTEREST AND BIAS. (a) Requires a person, before accepting appointment as an adoption evaluator in a suit, to disclose to the court, each attorney for a party to the suit, any attorney for a child who is the subject of the suit, and any party to the suit who does not have an attorney:

(1) any conflict of interest that the person believes the person has with a party to the suit or a child who is the subject of the suit;

(2) any previous knowledge that the person has of a party to the suit or a child who is the subject of the suit;

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

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

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

(b) Prohibits the court from appointing a person as an adoption evaluator in a suit if the person makes any of the disclosures in Subsection (a) unless:

(1) the court finds that the person meets certain requirements and fulfills certain conditions as set forth;

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

(c) Requires a person, after being appointed as an adoption evaluator in a suit, to immediately disclose to the court, each attorney for a party to the suit, any attorney for a child who is the subject of the suit, and any party to the suit who does not have an attorney any discovery of:

(1) a conflict of interest that the person believes the person has with a party to the suit or a child who is the subject of the suit; and

(2) previous knowledge that the person has of a party to the suit or a child who is the subject of the suit, other than knowledge obtained in a court-ordered evaluation.

(d) Requires a person to resign from the person's appointment as an adoption evaluator in a suit if the person makes any of the disclosures in Subsection (c) unless:

(1) the court finds that the person has no conflict of interest with a party to the suit or a child who is the subject of the suit and the person's previous

knowledge of a party to the suit or a child who is the subject of the suit is not relevant; or

(2) the parties and any attorney for a child who is the subject of the suit agree in writing to the person's continued appointment as the adoption evaluator.

(e) 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 the subject of the suit, or a member of the party's or child's family who is involved in the suit. Provides that this subsection does not apply to a person who has worked in a professional capacity with a party, a child, or a member of the party's or child's family only as a teacher of parenting skills in a group setting, with no individualized interaction with any party, the child, any party's family, or the child's family, or as a child custody evaluator or adoption evaluator who performed a previous evaluation. Defines "family" for the purposes of this subsection.

Sec. 107.157. REPORTING CERTAIN PLACEMENTS FOR ADOPTION. 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.

Sec. 107.158. GENERAL PROVISIONS APPLICABLE TO CONDUCT OF ADOPTION EVALUATOR AND PREPARATION OF REPORTS. (a) Requires an adoption evaluator's actions in conducting an adoption evaluation, unless otherwise directed by a court or prescribed by this subchapter, to be in conformance with the professional standard of care applicable to the evaluator's licensure and any administrative rules, ethical standards, or guidelines adopted by the licensing authority that licenses the evaluator.

(b) Authorizes a court to impose requirements or adopt local rules applicable to an adoption evaluation or an adoption evaluator that do not conflict with this subchapter.

(c) Requires an adoption evaluator to follow evidence-based practice methods and make use of current best evidence in making assessments and recommendations.

(d) Requires an adoption evaluator to disclose to each attorney of record any communication regarding a substantive issue between the evaluator and an attorney of record representing a party in a contested suit. Provides that this subsection does not apply to a communication between an adoption evaluator and an amicus attorney.

(e) Requires an adoption evaluator, to the extent possible, to verify each statement of fact pertinent to an adoption evaluation and to note the sources of verification and information in any report prepared on the evaluation.

(f) Requires an adoption evaluator to state the basis for the evaluator's conclusions or recommendations in any report prepared on the evaluation.

(g) Requires that an adoption evaluation report include for each adoption evaluator who conducted any portion of the adoption evaluation:

(1) the name and license number of the adoption evaluator; and

(2) a statement that the adoption evaluator meets the requirements of Section 107.154 or was appointed under Section 107.155.

Sec. 107.159. REQUIREMENTS FOR PRE-PLACEMENT PORTION OF ADOPTION EVALUATION AND REPORT. (a) Requires that the pre-placement part of an adoption evaluation, unless otherwise agreed to by the court, comply with the minimum requirements for the pre-placement part of an adoption evaluation under rules adopted by the executive commissioner.

(b) Requires an adoption evaluator, unless a child who is the subject of the suit begins to reside in a prospective adoptive home before the suit is commenced, to file with the court a report containing the evaluator's findings and conclusions made after completion of the pre-placement portion of the adoption evaluation.

(c) Authorizes the report required under this section and the post-placement adoption evaluation report required under Section 107.160, in a suit filed after the date a child who is the subject of the suit begins to reside in a prospective adoptive home, to be combined in a single report.

(d) Requires that the report required under this section be filed with the court before the court may sign the final order for termination of the parent-child relationship. Requires that the report be included in the record of the suit.

(e) Requires that a copy of the report prepared under this section be made available to the prospective adoptive parents before the court renders a final order of adoption.

Sec. 107.160. REQUIREMENTS FOR POST-PLACEMENT PORTION OF ADOPTION EVALUATION AND REPORT. (a) Requires that the post-placement part of an adoption evaluation, unless otherwise agreed to by the court, comply with the minimum requirements for the post-placement part of an adoption evaluation under rules adopted by the executive commissioner.

(b) Requires an adoption evaluator to file with the court a report containing the evaluator's findings and conclusions made after a child who is the subject of the suit in which the evaluation is ordered begins to reside in a prospective adoptive home.

(c) Requires that the report required under this section be filed with the court before the court renders a final order of adoption. Requires that the report be included in the record of the suit.

(d) Requires that a copy of the report prepared under this section be made available to the prospective adoptive parents before the court renders a final order of adoption.

Sec. 107.161. INTRODUCTION AND PROVISION OF ADOPTION EVALUATION REPORT AND TESTIMONY RELATING TO ADOPTION EVALUATION. (a) Provides that disclosure to the jury of the contents of an adoption evaluation report prepared under Section 107.159 or 107.160 is subject to the rules of evidence.

(b) Authorizes the court to 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. 107.162. ADOPTION EVALUATION FEE. Requires the court, if the court orders an adoption evaluation to be conducted, to award the adoption evaluator a reasonable fee for the preparation of the evaluation that shall be imposed in the form of a money judgment and paid directly to the evaluator. Authorizes the evaluator to enforce the judgment for the fee by any means available under law for civil judgments.

Sec. 107.163. ADOPTION EVALUATOR ACCESS TO INVESTIGATIVE RECORDS OF DEPARTMENT; OFFENSE. (a) 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.

(b) Provides that, except as provided by this section, records obtained by an adoption evaluator from DFPS under this section are confidential and not subject to disclosure under Chapter 552 (Public Information), Government Code, or to disclosure in response to a subpoena or a discovery request.

(c) Authorizes an adoption evaluator to disclose information obtained under Subsection (a) in the adoption evaluation report prepared under Section 107.159 or 107.160 only to the extent the evaluator determines that the information is relevant to the adoption evaluation or a recommendation made under this subchapter.

(d) Provides that a person commits an offense if the person discloses confidential information obtained from DFPS in violation of this section. Provides that an offense under this subsection is a Class A misdemeanor.

[Reserves Sections 107.164-107.200 for expansion.]

#### SUBCHAPTER F. EVALUATIONS IN CONTESTED ADOPTIONS

Sec. 107.201. APPLICABILITY. Provides that this subchapter does not apply to services provided in accordance with the Interstate Compact on the Placement of Children adopted under Subchapter B, Chapter 162, to an evaluation conducted in accordance with Section 262.114 by an employee of or contractor with DFPS, or to a suit in which DFPS is a party.

Sec. 107.202. ASSIGNMENT OF EVALUATIONS IN CONTESTED ADOPTIONS. (a) Requires the court, in a suit in which the adoption of a child is being contested, to determine the nature of the questions posed before appointing an evaluator to conduct either a child custody evaluation or an adoption evaluation.

(b) Requires a court in a suit for termination of parental rights to order a child custody evaluation under Subchapter D, and instruct the evaluator to address in the evaluation whether termination is in the best interest of the child.

(c) Authorizes a court that appoints an evaluator to assess the issue of termination of parental rights to, through written order, modify requirements of the child custody evaluation as necessary to address the circumstances of the family situation to be assessed.

(d) Authorizes a court to instruct an evaluator performing a child custody evaluation to concurrently address the requirements for an adoption evaluation under Subchapter E if the evaluator recommends that termination of parental rights is in the best interest of the child.

(e) Authorizes a court in a suit to determine whether the parties seeking adoption would be suitable to adopt a child on termination of parental rights to order an adoption evaluation under Subchapter E if the evaluation is not intended to determine whether termination of parental rights is in the child's best interest.

#### ARTICLE 2. TESTIMONY IN SUITS AFFECTING THE PARENT-CHILD RELATIONSHIP

SECTION 2.01. Amends Chapter 104, Family Code, by adding Section 104.008, as follows:

Sec. 104.008. CERTAIN TESTIMONY PROHIBITED. (a) 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 unless the person has conducted a child custody evaluation relating to the child under Subchapter D, Chapter 107.

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

(c) Provides that this section does not apply to a suit in which DFPS is a party.

### ARTICLE 3. CONFORMING AMENDMENTS RELATING TO CHILD CUSTODY EVALUATIONS AND ADOPTION EVALUATIONS

SECTION 3.01. Amends Section 153.605(d), Family Code, to prohibit an individual appointed as a parenting coordinator from serving in any nonconfidential capacity in the same case, including serving as an amicus attorney, guardian ad litem, child custody evaluator, rather than social study evaluator, or adoption evaluator under Chapter 107, as a friend of the court under Chapter 202 (Friend of the Court), or as a parenting facilitator under this subchapter.

SECTION 3.02. Amends Section 162.0025, Family Code, to change a reference to a social study to an adoption evaluation.

SECTION 3.03. Amends Section 162.003, Family Code, as follows:

Sec. 162.003. New heading: ADOPTION EVALUATION. Requires that an adoption evaluation, rather than pre-adoptive and post-placement social studies, in a suit for adoption, be conducted as provided by Chapter 107.

SECTION 3.04. Amend Section 162.0045, Family Code, to change reference to the social study to the adoption evaluation.

SECTION 3.05. Amends Section 203.004(a), Family Code, to change a reference to a social study to a child custody evaluation or adoption evaluation.

SECTION 3.06. Amends Section 203.005(a), Family Code, to change a reference to a social study to a child custody evaluation or adoption evaluation.

SECTION 3.07. Amends Sections 411.1285(a) and (c), Government Code, as follows:

(a) Entitles a domestic relations office created under Chapter 203 (Domestic Relations Offices), Family Code, to obtain from the Department of Public Safety of the State of Texas (DPS) criminal history record information that relates to a person who is a party to a proceeding in which the domestic relations office is providing services permitted under Chapter 203, Family Code, or a person involved in a child custody evaluation under Chapter 107, Family Code, in which the domestic relations office has been appointed to conduct the child custody evaluation.

(c) Prohibits criminal history record information requested under this section, except for relevant information included in a report of a child custody evaluation or adoption evaluation filed under Chapter 107, Family Code, from being released or disclosed by a domestic relations office to a person other than the court ordering the child custody evaluation or adoption evaluation except on court order or with the consent of the person who is the subject of the criminal history record information, rather than prohibits a criminal history record information request under this section, including information included in a report of a social study filed under Section 107.054, Family Code, from being released or disclosed by a domestic relations office to a person other than the court ordering the social study except on court order with consent of the person who is the subject of the criminal history record information.

SECTION 3.08. Amends Section 152.06331(f), Human Resources Code, to change reference to a social study to a child custody evaluation or adoption evaluation.

### ARTICLE 4. REPEALERS

SECTION 4.01. Repealer: Sections 107.0515 (Reports of Certain Placements for Adoption), 107.0519 (Pre-Adoptive Social Study), 107.052 (Post-Placement Adoptive Social Study and Report), and 107.053 (Prospective Adoptive Parents to Receive Copy), Family Code.

#### ARTICLE 5. TRANSITION AND EFFECTIVE DATE

SECTION 5.01. (a) 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, 2016, to adopt any rules necessary for license holders to comply with the requirements of Subchapter D, Chapter 107, Family Code, as amended by this Act, and 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 under Subchapter D, Chapter 107, Family Code, as amended by this Act, or adoption evaluation under Subchapter E, Chapter 107, Family Code, as added by this Act. Requires that the rules adopted under this subsection:

(1) specify that any complaint relating to the outcome of a child custody evaluation, adoption evaluation, or other forensic service 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 107.111 or 107.163, Family Code, as added by this Act, is grounds for disciplinary action.

(b) Requires the Texas State Board of Examiners of Psychologists, the Texas State Board of Examiners of Professional Counselors, the Texas State Board of Examiners of Marriage and Family Therapists, and the Texas Medical Board, as soon as possible after the effective date of this Act, 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 under Subchapter D, Chapter 107, Family Code, as amended by this Act, unless the person is otherwise qualified to conduct the evaluation.

(c) Requires the executive commissioner, as soon as possible after the effective date of this Act, to adopt rules prohibiting a licensed chemical dependency counselor from conducting a child custody evaluation as a child custody evaluator under Subchapter D, Chapter 107, Family Code, as amended 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) Requires the executive commissioner, not later than September 1, 2016, to adopt any rules necessary to implement Subchapter E, Chapter 107, Family Code, as added by this Act. Provides that Subchapter E, Chapter 107, Family Code, as added by this Act, applies to an adoption evaluation ordered by a court on or after September 1, 2016, or the date the executive commissioner adopts rules under this subsection, whichever date occurs first. Provides that an adoption evaluation, pre-placement 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 5.02. (a) Provides that, notwithstanding any other law, a person is qualified to conduct a child custody evaluation under Section 107.104, Family Code, as redesignated and amended by this Act, or an adoption evaluation under Section 107.154, Family Code, as added by this Act, without satisfying the supervision requirements of Section 107.104(b)(1) or (2) 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.

(b) Provides that, notwithstanding any other law, a person who is qualified to conduct a social study evaluation under former Section 107.0511(g), Family Code, is authorized to conduct a child custody evaluation before September 1, 2017, without meeting the requirements under Section 107.104, Family Code, as redesignated and amended by this Act, and the former law is continued in effect for that purpose.

SECTION 5.03. Provides that the changes in law made by this Act apply to a suit affecting the parent-child relationship that is pending in a trial court on the effective date of this Act or filed on or after that date.

SECTION 5.04. Effective date: September 1, 2015.