

By: Thompson of Harris

H.B. No. 1449

Substitute the following for H.B. No. 1449:

By: Dutton

C.S.H.B. No. 1449

A BILL TO BE ENTITLED

1 AN ACT
2 relating to child custody evaluations and adoption evaluations
3 conducted and testimony provided in certain suits affecting the
4 parent-child relationship; providing penalties; creating an
5 offense; authorizing fees.

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

7 ARTICLE 1. CHILD CUSTODY EVALUATION AND ADOPTION EVALUATION

8 SECTION 1.01. The heading to Chapter 107, Family Code, is
9 amended to read as follows:

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

12 SECTION 1.02. The heading to Subchapter D, Chapter 107,
13 Family Code, is amended to read as follows:

14 SUBCHAPTER D. CHILD CUSTODY EVALUATION [~~SOCIAL STUDY~~]

15 SECTION 1.03. Section 107.0501, Family Code, is
16 redesignated as Section 107.101, Family Code, and amended to read
17 as follows:

18 Sec. 107.101 [~~107.0501~~]. DEFINITIONS. In this subchapter:

19 (1) "Child custody evaluation" [~~"Social study"~~] means
20 an evaluative process ordered by a court in a contested case through
21 which information, opinions, [~~and~~] recommendations, and answers to
22 specific questions asked by the court may be:

23 (A) made regarding:

24 (i) [~~adoption of a child,~~] conservatorship

1 of a child, including the terms and conditions of conservatorship;

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

4 or

5 (iii) any other issue affecting the best
6 interest of a child; and

7 (B) [may be] made to the [a] court, the parties to
8 the suit, [and] the parties' attorneys, and any other person
9 appointed under this chapter by the court in the suit. [The term
10 does not include services provided in accordance with the
11 Interstate Compact on the Placement of Children adopted under
12 Subchapter B, Chapter 162, or an evaluation conducted in accordance
13 with Section 262.114 by an employee of or contractor with the
14 Department of Family and Protective Services.]

15 (2) "Child custody [Social study] evaluator" means an
16 individual who conducts a child custody evaluation [social study]
17 under this subchapter. The term includes a private child custody
18 evaluator.

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

21 (4) "Person" includes an agency or a domestic
22 relations office.

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

27 (6) "Supervision" means directing, regularly

1 reviewing, and meeting with a person with respect to the completion
2 of work for which the supervisor is responsible for the outcome.
3 The term does not require the constant physical presence of the
4 person providing supervision and may include telephonic or other
5 electronic communication.

6 SECTION 1.04. Subchapter D, Chapter 107, Family Code, is
7 amended by adding Sections 107.102 and 107.1025 to read as follows:

8 Sec. 107.102. APPLICABILITY. (a) For purposes of this
9 subchapter, a child custody evaluation does not include services
10 provided in accordance with the Interstate Compact on the Placement
11 of Children adopted under Subchapter B, Chapter 162, or an
12 evaluation conducted in accordance with Section 262.114 by an
13 employee of or contractor with the department.

14 (b) The department may not conduct a child custody
15 evaluation.

16 (c) Except as provided by Subsections (a) and (b), this
17 subchapter does not apply to the department or to a suit to which
18 the department is a party.

19 Sec. 107.1025. EFFECT OF MENTAL EXAMINATION. A mental
20 examination described by Rule 204.4, Texas Rules of Civil
21 Procedure, does not by itself satisfy the requirements for a child
22 custody evaluation under this subchapter. A mental examination may
23 be included in the report required under this subchapter and relied
24 on by the child custody evaluator to the extent the evaluator
25 considers appropriate under the circumstances.

26 SECTION 1.05. Section 107.051, Family Code, is redesignated
27 as Section 107.103, Family Code, and amended to read as follows:

1 Sec. 107.103 [~~107.051~~]. ORDER FOR CHILD CUSTODY EVALUATION
2 ~~[SOCIAL STUDY]~~. (a) The court, after notice and hearing or on
3 agreement of the parties, may order the preparation of a child
4 custody evaluation regarding:

5 (1) [~~social study into~~] the circumstances and
6 condition of:

7 (A) [~~(1)~~] a child who is the subject of a suit;

8 (B) [~~or~~] a party to a suit; and

9 (C) [~~(2)~~] the residence [~~home~~] of any person
10 requesting conservatorship of, possession of, or access to a child
11 who is the subject of the suit; and

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

14 (b) The court may not appoint a child custody evaluator in a
15 suit involving a nonparent seeking conservatorship of a child
16 unless, after notice and hearing or on agreement of the parties, the
17 court makes a specific finding that good cause has been shown for
18 the appointment of a child custody evaluator [~~social study may be~~
19 ~~made by a private entity, a person appointed by the court, a~~
20 ~~domestic relations office, or a state agency, including the~~
21 ~~Department of Family and Protective Services if the department is a~~
22 ~~party to the suit)].~~

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

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

26 (2) the purpose of the evaluation; and

27 (3) the specific issues or questions to be addressed

1 in the evaluation [~~In a suit in which adoption is requested or~~
2 ~~conservatorship of, possession of, or access to a child is an issue~~
3 ~~and in which a social study has been ordered and the Department of~~
4 ~~Family and Protective Services is not a party, the court shall~~
5 ~~appoint a private agency, another person, or a domestic relations~~
6 ~~office to conduct the social study~~].

7 (d) Except as provided by Section 107.106 [~~107.0511(b)~~],
8 each individual who conducts a child custody evaluation [~~social~~
9 ~~study~~] must be qualified under Section 107.104 [~~107.0511~~].

10 SECTION 1.06. Section 107.0511, Family Code, is
11 redesignated as Section 107.104, Family Code, and amended to read
12 as follows:

13 Sec. 107.104 [~~107.0511~~]. CHILD CUSTODY [~~SOCIAL STUDY~~]
14 EVALUATOR: MINIMUM QUALIFICATIONS. (a) In this section:

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

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

21 (b) [~~The minimum qualifications prescribed by this section~~
22 ~~do not apply to an individual conducting a social study.~~

23 [~~(1) in connection with a suit pending before a court~~
24 ~~located in a county with a population of less than 500,000,~~

25 [~~(2) in connection with an adoption governed by rules~~
26 ~~adopted under Section 107.0519(a),~~

27 [~~(3) as an employee or other authorized representative~~

1 ~~of a licensed child-placing agency; or~~

2 ~~[(4) as an employee or other authorized representative~~
3 ~~of the Department of Family and Protective Services.]~~

4 ~~[(c) The executive commissioner of the Health and Human~~
5 ~~Services Commission shall adopt rules prescribing the minimum~~
6 ~~qualifications that an individual described by Subsection (b)(3) or~~
7 ~~(4) must possess in order to conduct a social study under this~~
8 ~~subchapter.]~~

9 ~~[(d)]~~ To be qualified to conduct a child custody evaluation
10 ~~[social study under this subchapter]~~, an individual must:

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

17 (A) after completing any degree required by this
18 subdivision, have two years of full-time experience or equivalent
19 part-time experience under professional supervision during which
20 the individual performed functions involving the evaluation of
21 physical, intellectual, social, and psychological functioning and
22 needs and developed an understanding ~~[the potential]~~ of the social
23 and physical environment, both present and prospective, to meet
24 those needs; and

25 (B) after obtaining a license required by this
26 subdivision, have performed ~~[participated in the performance of]~~ at
27 least 10 court-ordered child custody evaluations ~~[social studies]~~

1 under the supervision of an individual qualified under this
2 section;

3 (2) meet the requirements of Subdivision (1)(A) and be
4 practicing under the direct supervision of an individual qualified
5 under this section in order to complete at least 10 court-ordered
6 child custody evaluations [~~social studies~~] under supervision; [~~or~~]

7 (3) be employed by or under contract with a domestic
8 relations office, provided that the individual conducts child
9 custody evaluations [~~social studies~~] relating only to families
10 ordered by a court to participate in child custody evaluations
11 [~~social studies~~] conducted by the domestic relations office; or

12 (4) have a doctoral degree and:

13 (A) hold a license in a human services field of
14 study;

15 (B) have completed continuing education or
16 professional development:

17 (i) directly related to the performance of
18 child custody evaluations; and

19 (ii) the number of hours of which satisfy
20 the licensing requirements for the individual's license; and

21 (C) after completing the education described by
22 Paragraph (B), have participated in at least 10 court-ordered child
23 custody evaluations in consultation with a person who is:

24 (i) qualified to perform child custody
25 evaluations under this chapter; and

26 (ii) meets any requirements imposed by the
27 agency that issues the individual's license.

1 (c) The agency that issues the license to an individual
2 qualified to conduct child custody evaluations under Subsection
3 (b)(4) may determine by rule the courses, internships, practicums,
4 or other professional preparatory activities that satisfy the
5 requirements under Subsection (b)(4)(B) and the qualifications for
6 a person described by Subsection (b)(4)(C).

7 ~~(d) [(e) If an individual meeting the requirements of this~~
8 ~~section is not available in the county served by the court, the~~
9 ~~court may authorize an individual determined by the court to be~~
10 ~~otherwise qualified to conduct the social study.~~

11 ~~[(f)]~~ In addition to the qualifications prescribed by this
12 section, an individual must complete at least eight hours of family
13 violence dynamics training provided by a family violence service
14 provider to be qualified to conduct a child custody evaluation
15 ~~[social study]~~ under this subchapter.

16 ~~[(g) The minimum qualifications prescribed by this section~~
17 ~~do not apply to an individual who, before September 1, 2007:~~

18 ~~[(1) lived in a county that has a population of 500,000~~
19 ~~or more and is adjacent to two or more counties each of which has a~~
20 ~~population of 50,000 or more;~~

21 ~~[(2) received a four-year degree from an accredited~~
22 ~~institution of higher education;~~

23 ~~[(3) worked as a child protective services~~
24 ~~investigator for the Department of Family and Protective Services~~
25 ~~for at least four years;~~

26 ~~[(4) worked as a community supervision and corrections~~
27 ~~department officer; and~~

1 ~~[(5) conducted at least 100 social studies in the~~
2 ~~previous five years.]~~

3 ~~[(h) A person described by Subsection (g) who performs a~~
4 ~~social study must:~~

5 ~~[(1) complete at least eight hours of family violence~~
6 ~~dynamics training provided by a family violence service provider,~~
7 ~~and~~

8 ~~[(2) participate annually in at least 15 hours of~~
9 ~~continuing education for child custody evaluators that meets the~~
10 ~~Model Standards of Practice for Child Custody Evaluation adopted by~~
11 ~~the Association of Family and Conciliation Courts as those~~
12 ~~standards existed May 1, 2009, or a later version of those standards~~
13 ~~if adopted by rule of the executive commissioner of the Health and~~
14 ~~Human Services Commission.]~~

15 ~~[(i) Subsections (g) and (h) and this subsection expire~~
16 ~~September 1, 2017.]~~

17 SECTION 1.07. Subchapter D, Chapter 107, Family Code, is
18 amended by adding Sections 107.105 and 107.106 to read as follows:

19 Sec. 107.105. CHILD CUSTODY EVALUATION: SPECIALIZED
20 TRAINING REQUIRED. (a) The court shall determine whether the
21 qualifications of a child custody evaluator satisfy the
22 requirements of this subchapter.

23 (b) A child custody evaluator must demonstrate, if
24 requested, appropriate knowledge and competence in child custody
25 evaluation services consistent with professional models,
26 standards, and guidelines.

27 Sec. 107.106. EXCEPTION TO QUALIFICATIONS REQUIRED TO

1 CONDUCT CHILD CUSTODY EVALUATION. (a) In a county with a
2 population of less than 500,000, if a court finds that an individual
3 who meets the requirements of Section 107.104 is not available in
4 the county to conduct a child custody evaluation in a timely manner,
5 the court, after notice and hearing, may appoint an individual the
6 court determines to be otherwise qualified to conduct the
7 evaluation.

8 (b) An individual appointed under this section shall comply
9 with all provisions of this subchapter, other than Section 107.104.

10 SECTION 1.08. Section [107.0512](#), Family Code, is
11 redesignated as Section 107.107, Family Code, and amended to read
12 as follows:

13 Sec. 107.107 [~~107.0512~~]. CHILD CUSTODY [~~SOCIAL STUDY~~]
14 EVALUATOR: CONFLICTS OF INTEREST AND BIAS. (a) Before accepting
15 appointment as a child custody [~~A social study~~] evaluator in a suit,
16 a person must disclose to the court, each attorney for a party to
17 the suit, any attorney for a child who is the subject of the suit,
18 and any party to the suit who does not have an attorney:

19 (1) any [~~who has a~~] conflict of interest that the
20 person believes the person has with any party to the [~~in a disputed~~]
21 suit or a child who is the subject of the suit;

22 (2) any [~~who may be biased on the basis of~~] previous
23 knowledge that the person has of a party to the suit or a child who
24 is the subject of the suit, other than knowledge obtained in a
25 court-ordered evaluation;

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

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

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

8 ~~[(1) decline to conduct a social study for the suit; or~~
9 ~~[(2) disclose any issue or concern to the court before~~
10 ~~accepting the appointment or assignment].~~

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

14 (1) the court finds that:

15 (A) the person has no conflict of interest with a
16 party to the suit or a child who is the subject of the suit;

17 (B) the person's previous knowledge of a party to
18 the suit or a child who is the subject of the suit is not relevant;

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

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

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

26 (c) After being appointed as a child custody evaluator in a
27 suit, a person shall immediately disclose to the court, each

1 attorney for a party to the suit, any attorney for a child who is the
2 subject of the suit, and any party to the suit who does not have an
3 attorney any discovery of:

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

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

10 (d) A person shall resign from the person's appointment as a
11 child custody evaluator in a suit if the person makes any of the
12 disclosures in Subsection (c) 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 the subject of the suit; and

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

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

22 (e) A child custody [social study] evaluator who has
23 previously conducted a child custody evaluation [social study] for
24 a suit may conduct all subsequent evaluations in the suit unless the
25 court finds that the evaluator is biased.

26 (f) An individual may not be appointed as a child custody
27 evaluator in a suit if the individual has worked in a professional

1 capacity with a party to the suit, a child who is the subject of the
2 suit, or a member of the party's or child's family who is involved in
3 the suit. This subsection does not apply to an individual who has
4 worked in a professional capacity with a party, a child, or a member
5 of the party's or child's family only as a teacher of parenting
6 skills in a group setting, with no individualized interaction with
7 any party, the child, any party's family, or the child's family, or
8 as a child custody evaluator who performed a previous evaluation. A
9 child custody evaluator who has worked as a teacher of parenting
10 skills in a group setting that included a party, a child, or another
11 person who will be the subject of an evaluation or has worked as a
12 child custody evaluator for a previous evaluation must notify the
13 court and the attorney of each represented party or, if a party is
14 not represented, the evaluator must notify the party. For purposes
15 of this subsection, "family" has the meaning assigned by Section
16 [71.003](#).

17 ~~[(c) This section does not prohibit a court from appointing~~
18 ~~an employee of the Department of Family and Protective Services to~~
19 ~~conduct a social study in a suit in which adoption is requested or~~
20 ~~possession of or access to a child is an issue and in which the~~
21 ~~department is a party or has an interest.]~~

22 SECTION 1.09. Section [107.0513](#), Family Code, is
23 redesignated as Section 107.108, Family Code, and amended to read
24 as follows:

25 Sec. [107.108](#) [[107.0513](#)]. GENERAL PROVISIONS APPLICABLE TO
26 CONDUCT OF CHILD CUSTODY EVALUATION [~~SOCIAL STUDY~~] AND PREPARATION
27 OF REPORT. (a) Unless otherwise directed by a court or prescribed

1 by a provision of this title, a child custody [~~social study~~]
2 evaluator's actions in conducting a child custody evaluation must
3 [~~social study shall~~] be in conformance with the professional
4 standard of care applicable to the evaluator's licensure and any
5 administrative rules, ethical standards, or guidelines adopted by
6 the licensing authority [~~state agency~~] that licenses the evaluator.

7 (b) A [~~In addition to the requirements prescribed by this~~
8 ~~subchapter, a~~] court may impose requirements or adopt local rules
9 applicable to a child custody evaluation [~~social study~~] or a child
10 custody [~~social study~~] evaluator that do not conflict with this
11 subchapter.

12 (c) A child custody [~~social study~~] evaluator shall follow
13 evidence-based practice methods and make use of current best
14 evidence in making assessments and recommendations.

15 (d) A child custody [~~social study~~] evaluator shall disclose
16 to each attorney of record any communication regarding a
17 substantive issue between the evaluator and an attorney of record
18 representing a party in a contested [~~disputed~~] suit. This
19 subsection does not apply to a communication between a child
20 custody [~~social study~~] evaluator and an attorney ad litem or amicus
21 attorney.

22 (e) To the extent possible, a child custody [~~social study~~]
23 evaluator shall verify each statement of fact pertinent to a child
24 custody evaluation [~~social study~~] and shall note the sources of
25 verification and information in the child custody evaluation report
26 prepared under Section 107.113.

27 (f) A child custody [~~social study~~] evaluator shall state the

1 basis for the evaluator's conclusions or recommendations, and the
2 extent to which information obtained limits the reliability and
3 validity of the opinion and the conclusions and recommendations of
4 the evaluator, in the child custody evaluation report prepared
5 under Section 107.113. A child custody [~~social study~~] evaluator
6 who has evaluated only one side of a contested suit [~~disputed case~~]
7 shall refrain from making a recommendation regarding
8 conservatorship of a child or possession of or access to a child,
9 but may state whether any information obtained regarding a child's
10 placement with a party indicates concerns for:

- 11 (1) the safety of the child;
12 (2) the party's parenting skills or capability;
13 (3) the party's relationship with the child; or
14 (4) the mental health of the party [~~the party~~
15 ~~evaluated appears to be suitable for conservatorship~~].

16 (g) A child custody evaluation [~~Each social study subject to~~
17 ~~this subchapter~~] must be conducted in compliance with this
18 subchapter, regardless of whether the child custody evaluation
19 [~~study~~] is conducted:

- 20 (1) by a single child custody [~~social study~~] evaluator
21 or multiple evaluators working separately or together; or
22 (2) within a county served by the court with
23 continuing jurisdiction or at a geographically distant location.

24 (h) A child custody evaluation [~~social study~~] report must
25 include for each child custody evaluator who conducted any portion
26 of the child custody evaluation:

- 27 (1) the name and[-] license number of the child

1 custody evaluator;~~[7]~~ and

2 (2) a statement that the child custody evaluator:

3 (A) has read and meets the requirements of ~~[basis~~
4 ~~for qualification under]~~ Section 107.104; or

5 (B) was appointed under Section 107.106
6 ~~[107.0511 of each social study evaluator who conducted any portion~~
7 ~~of the social study].~~

8 SECTION 1.10. Section 107.0514, Family Code, is
9 redesignated as Section 107.109, Family Code, and amended to read
10 as follows:

11 Sec. 107.109 ~~[107.0514]~~. ELEMENTS OF CHILD CUSTODY
12 EVALUATION ~~[SOCIAL STUDY]~~. (a) A child custody evaluator may not
13 offer an opinion regarding conservatorship of a child who is the
14 subject of a suit or possession of or access to the child unless
15 each basic element of a child custody evaluation as described by
16 this section has been completed.

17 (b) A child custody evaluator shall:

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

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

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

26 (c) The basic elements of a child custody evaluation ~~[social~~
27 ~~study]~~ under this subchapter consist of:

1 (1) a personal interview of each party to the suit;

2 (2) interviews [~~an interview~~], conducted in a
3 developmentally appropriate manner, of each child who is the
4 subject of [~~at issue in~~] the suit, regardless of the age of the
5 child, during a period of possession of each party to the suit but
6 outside the presence of the party [~~who is at least four years of~~
7 ~~age~~];

8 (3) observation of each child who is the subject of [~~at~~
9 ~~issue in~~] the suit, regardless of the age of the child, in the
10 presence of each party to the suit, including, as appropriate,
11 during supervised visitation, unless contact between a party and a
12 child is prohibited by court order or the person conducting the
13 evaluation has good cause for not conducting the observation and
14 states the good cause in writing provided to the parties to the suit
15 before the completion of the evaluation;

16 (4) an interview, if the child is at least four years
17 of age, and observation of any child who is not a subject of the suit
18 who lives on a full-time basis in a residence that is the subject of
19 the evaluation;

20 (5) the obtaining of information from relevant
21 collateral sources, including the review of:

22 (A) relevant school records;

23 (B) relevant physical and mental health records
24 of each party to the suit and each child who is the subject of the
25 suit;

26 (C) relevant records of the department obtained
27 under Section 107.111;

1 (D) criminal history record information relating
2 to each child who is the subject of the suit, each party to the suit,
3 and each person who lives with a party to the suit; and

4 (E) any other collateral source that may have
5 relevant information;

6 (6) [(5)] evaluation of the home environment of each
7 party seeking conservatorship of a child who is the subject of [at
8 issue in] the suit or possession of or access to the child, unless
9 the condition of the home environment is identified as not being in
10 dispute in the court order requiring the child custody evaluation
11 [social study];

12 (7) [(6)] for each individual residing in a residence
13 subject to the child custody evaluation [social study],
14 consideration of any criminal history record information and any
15 contact with the department [Department of Family and Protective
16 Services] or a law enforcement agency regarding abuse or neglect;
17 and

18 (8) [(7)] assessment of the relationship between each
19 child who is the subject of [at issue in] the suit and each party
20 seeking possession of or access to the child.

21 (d) [(b)] The additional elements of a child custody
22 evaluation [social study] under this subchapter consist of:

23 (1) balanced interviews and observations
24 [observation] of each child who is the subject of [at issue in] the
25 suit so that a child who is interviewed or observed while in the
26 care of one party to the suit is also interviewed or observed while
27 in the care of each other party to the suit;

1 (2) an interview of each individual, including a child
2 who is at least four years of age, residing on a full-time or
3 part-time basis in a residence subject to the child custody
4 evaluation [~~social study~~]; [~~and~~]

5 (3) evaluation of the home environment of each party
6 seeking conservatorship of a child who is the subject of [~~at issue~~
7 ~~in~~] the suit or possession of or access to the child, regardless of
8 whether the home environment is in dispute;

9 (4) observation of a child who is the subject of the
10 suit with each adult who lives in a residence that is the subject of
11 the evaluation;

12 (5) an interview, if the child is at least four years
13 of age, and observation of a child who is not the subject of the suit
14 but who lives on a full-time or part-time basis in a residence that
15 is the subject of the evaluation;

16 (6) psychometric testing, if necessary, consistent
17 with Section 107.110; and

18 (7) the performance of other tasks requested of the
19 evaluator by the court, including:

20 (A) a joint interview of the parties to the suit;
21 or

22 (B) the review of any other information that the
23 court determines is relevant.

24 ~~[(c) A social study evaluator may not offer an opinion~~
25 ~~regarding conservatorship of a child at issue in a suit or~~
26 ~~possession of or access to the child unless each basic element of a~~
27 ~~social study under Subsection (a) has been completed. A social~~

~~study evaluator shall identify in the report any additional element of a social study under Subsection (b) that was not completed and shall explain the reasons that the element was not completed.]~~

SECTION 1.11. Subchapter D, Chapter 107, Family Code, is amended by adding Section 107.110 to read as follows:

Sec. 107.110. PSYCHOMETRIC TESTING. (a) A child custody evaluator may 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:

(A) appropriately licensed and trained to administer and interpret the specific psychometric tests selected; and

(B) trained in the specialized forensic application of psychometric testing.

(b) 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.

(c) A child custody evaluator may only use psychometric tests if the evaluator is familiar with the reliability, validation, and related standardization or outcome studies of, and proper applications and use of, the tests within a forensic setting.

(d) If a child custody evaluator considers psychometric testing necessary but lacks specialized training or expertise to use the specific tests under this section, the evaluator may

1 designate a qualified licensed psychologist to conduct the testing.

2 SECTION 1.12. Subchapter D, Chapter 107, Family Code, is
3 amended by adding Section 107.1101 to read as follows:

4 Sec. 107.1101. EFFECT OF POTENTIALLY UNDIAGNOSED SERIOUS
5 MENTAL ILLNESS. (a) In this section, "serious mental illness" has
6 the meaning assigned by Section 1355.001, Insurance Code.

7 (b) If a child custody evaluator identifies the presence of
8 a potentially undiagnosed serious mental illness experienced by an
9 individual who is a subject of the child custody evaluation and the
10 evaluator is not qualified by the evaluator's licensure,
11 experience, and training to assess a serious mental illness, the
12 evaluator shall make one or more appropriate referrals for a mental
13 examination of the individual.

14 (c) The child custody evaluation report must include any
15 information that the evaluator considers appropriate under the
16 circumstances regarding the possible effects of an individual's
17 potentially undiagnosed serious mental illness on the evaluation
18 and the evaluator's recommendations.

19 SECTION 1.13. Section 107.05145, Family Code, is
20 redesignated as Section 107.111, Family Code, and amended to read
21 as follows:

22 Sec. 107.111 [~~107.05145~~]. CHILD CUSTODY [~~SOCIAL STUDY~~]
23 EVALUATOR ACCESS TO INVESTIGATIVE RECORDS OF DEPARTMENT [~~OF FAMILY~~
24 ~~AND PROTECTIVE SERVICES~~]; OFFENSE. (a) A child custody [~~social~~
25 ~~study~~] evaluator appointed by a court is entitled to obtain from the
26 department [~~Department of Family and Protective Services~~] a
27 complete, unredacted copy of any investigative record regarding

1 abuse or neglect that relates to any person residing in the
2 residence subject to the child custody evaluation [~~social study~~].

3 (b) Except as provided by this section, records obtained by
4 a child custody [~~social study~~] evaluator from the department
5 [~~Department of Family and Protective Services~~] under this section
6 are confidential and not subject to disclosure under Chapter 552,
7 Government Code, or to disclosure in response to a subpoena or a
8 discovery request.

9 (c) A child custody [~~social study~~] evaluator may disclose
10 information obtained under Subsection (a) in the child custody
11 evaluation [~~social study~~] report prepared under Section 107.113
12 only to the extent the evaluator determines that the information is
13 relevant to the child custody evaluation [~~social study~~] or a
14 recommendation made under this subchapter.

15 (d) A person commits an offense if the person recklessly
16 discloses confidential information obtained from the department
17 [~~Department of Family and Protective Services~~] in violation of this
18 section. An offense under this subsection is a Class A misdemeanor.

19 SECTION 1.14. Subchapter D, Chapter 107, Family Code, is
20 amended by adding Section 107.112 to read as follows:

21 Sec. 107.112. COMMUNICATIONS AND RECORDKEEPING OF CHILD
22 CUSTODY EVALUATOR. (a) Notwithstanding any rule, standard of
23 care, or privilege applicable to the professional license held by a
24 child custody evaluator, a communication made by a participant in a
25 child custody evaluation is subject to disclosure and may be
26 offered in any judicial or administrative proceeding if otherwise
27 admissible under the rules of evidence.

1 (b) A child custody evaluator shall:

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

6 (2) maintain the evaluator's records consistent with
7 applicable laws, including rules applicable to the evaluator's
8 license.

9 (c) Except for records obtained from the department in
10 accordance with Section 107.111, a private child custody evaluator
11 shall, after completion of an evaluation and the preparation and
12 filing of a child custody evaluation report under Section 107.113,
13 make available in a reasonable time the evaluator's records
14 relating to the evaluation on the written request of an attorney for
15 a party, a party who does not have an attorney, and any person
16 appointed under this chapter in the suit in which the evaluator
17 conducted the evaluation, unless a court has issued an order
18 restricting disclosure of the records.

19 (d) Except for records obtained from the department in
20 accordance with Section 107.111, records relating to a child
21 custody evaluation conducted by an employee of or contractor with a
22 domestic relations office shall, after completion of the evaluation
23 and the preparation and filing of a child custody evaluation report
24 under Section 107.113, be made available on written request
25 according to the local rules and policies of the office.

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

1 records before copying the records.

2 (f) A private child custody evaluator shall retain all
3 records relating to a child custody evaluation conducted by the
4 evaluator until the ending date of the retention period adopted by
5 the licensing authority that issues the professional license held
6 by the evaluator based on the date the evaluator filed the child
7 custody evaluation report prepared under this section with the
8 court.

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

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

16 SECTION 1.15. Section 107.054, Family Code, is redesignated
17 as Section 107.113, Family Code, and amended to read as follows:

18 Sec. 107.113 [107.054]. CHILD CUSTODY EVALUATION REPORT
19 REQUIRED [FILED WITH COURT]. (a) A child custody evaluator who
20 conducts a child custody evaluation shall prepare and file a report
21 containing the evaluator's findings, opinions, recommendations,
22 and answers to specific questions asked by the court relating to the
23 evaluation.

24 (b) The [agency or] person conducting a child custody
25 evaluation [making the social study] shall file with the court on a
26 date set by the court a report containing the person's [its]
27 findings and conclusions. The report shall be made a part of the

1 record of the suit.

2 (c) If the suit is settled before completion of the child
3 custody evaluation report, the report under this section is not
4 required.

5 (d) A report prepared under this section must include the
6 information required by Section 107.108(h) for each child custody
7 evaluator who conducted any portion of the evaluation.

8 SECTION 1.16. Section 107.055, Family Code, is redesignated
9 as Section 107.114, Family Code, and amended to read as follows:

10 Sec. 107.114 [~~107.055~~]. INTRODUCTION AND PROVISION OF
11 CHILD CUSTODY EVALUATION REPORT [~~AT TRIAL~~]. (a) Disclosure to the
12 jury of the contents of a child custody evaluation report prepared
13 under Section 107.113 [~~to the court of a social study~~] is subject to
14 the rules of evidence.

15 (b) Unless the court has rendered an order restricting
16 disclosure, a private child custody evaluator shall provide to the
17 attorneys of the parties to a suit, any party who does not have an
18 attorney, and any other person appointed by the court under this
19 chapter in a suit a copy [~~In a contested case, the agency or person~~
20 ~~making the social study shall furnish copies~~] of the child custody
21 evaluation report [~~to the attorneys for the parties~~] before the
22 earlier of:

23 (1) the third [~~seventh~~] day after the date the child
24 custody evaluation report [~~social study~~] is completed; or

25 (2) the 30th [~~fifth~~] day before the date of
26 commencement of the trial.

27 (c) A child custody evaluator who conducts a child custody

1 evaluation as an employee of or under contract with a domestic
2 relations office shall provide to the attorneys of the parties to a
3 suit and any person appointed in the suit under this chapter a copy
4 of the child custody evaluation report before the earlier of:

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

7 (2) the fifth day before the date the trial commences.

8 (d) A child custody evaluator who conducts a child custody
9 evaluation as an employee of or under contract with a domestic
10 relations office shall provide a copy of the report to a party to
11 the suit as provided by the local rules and policies of the office
12 or by a court order ~~[The court may compel the attendance of~~
13 ~~witnesses necessary for the proper disposition of the suit,~~
14 ~~including a representative of the agency making the social study,~~
15 ~~who may be compelled to testify].~~

16 SECTION 1.17. Section 107.056, Family Code, is redesignated
17 as Section 107.115, Family Code, and amended to read as follows:

18 Sec. 107.115 [107.056]. CHILD CUSTODY EVALUATION
19 [PREPARATION] FEE. If the court orders a child custody evaluation
20 [social study] to be conducted, the court shall award the [agency or
21 other] person appointed as the child custody evaluator a reasonable
22 fee for the preparation of the child custody evaluation ~~[study]~~
23 that shall be imposed in the form of a money judgment and paid
24 directly to the [agency or other] person. The person ~~[or agency]~~
25 may enforce the judgment for the fee by any means available under
26 law for civil judgments.

27 SECTION 1.18. Chapter 107, Family Code, is amended by

1 adding Subchapters E and F to read as follows:

2 SUBCHAPTER E. ADOPTION EVALUATION

3 Sec. 107.151. DEFINITIONS. In this subchapter:

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

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

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

12 (4) "Supervision" means directing, regularly
13 reviewing, and meeting with a person with respect to the completion
14 of work for which the supervisor is responsible for the outcome.
15 The term does not require the constant physical presence of the
16 person providing supervision and may include telephonic or other
17 electronic communication.

18 Sec. 107.152. APPLICABILITY. (a) For purposes of this
19 subchapter, an adoption evaluation does not include services
20 provided in accordance with the Interstate Compact on the Placement
21 of Children adopted under Subchapter B, Chapter 162, or an
22 evaluation conducted in accordance with Section 262.114 by an
23 employee of or contractor with the department.

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

27 (c) The pre-placement and post-placement parts of an

1 adoption evaluation conducted by a licensed child-placing agency or
2 the department are governed by rules adopted by the executive
3 commissioner of the Health and Human Services Commission.

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

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

12 (1) a party to the suit; or

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

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

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

22 (2) an adoption.

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

27 (c) The court may appoint a qualified individual, a

1 qualified private entity, or a domestic relations office to conduct
2 the adoption evaluation.

3 (d) Except as provided by Section 107.155, a person who
4 conducts an adoption evaluation must meet the requirements of
5 Section 107.154.

6 (e) The costs of an adoption evaluation under this section
7 shall be paid by the prospective adoptive parent.

8 Sec. 107.154. ADOPTION EVALUATOR: MINIMUM QUALIFICATIONS.

9 (a) In this section:

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

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

16 (b) To be qualified to conduct an adoption evaluation under
17 this subchapter, a person must:

18 (1) have a degree from an accredited college or
19 university in a human services field of study and a license to
20 practice in this state as a social worker, professional counselor,
21 marriage and family therapist, or psychologist and:

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

24 (B) be practicing under the direct supervision of
25 a person qualified under this section to conduct adoption
26 evaluations;

27 (2) be employed by a domestic relations office,

1 provided that the person conducts adoption evaluations relating
2 only to families ordered to participate in adoption evaluations
3 conducted by the domestic relations office; or

4 (3) be qualified as a child custody evaluator under
5 Section 107.104.

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

11 Sec. 107.155. EXCEPTION TO QUALIFICATIONS REQUIRED TO
12 CONDUCT ADOPTION EVALUATION. (a) In a county with a population of
13 less than 500,000, if a court finds that an individual who meets the
14 requirements of Section 107.154 is not available in the county to
15 conduct an adoption evaluation in a timely manner, the court, after
16 notice and hearing, may appoint a person the court determines to be
17 otherwise qualified to conduct the evaluation.

18 (b) An individual appointed under this section shall comply
19 with all provisions of this subchapter, other than Section 107.154.

20 Sec. 107.156. ADOPTION EVALUATOR: CONFLICTS OF INTEREST AND
21 BIAS. (a) Before accepting appointment as an adoption evaluator in
22 a suit, a person must disclose to the court, each attorney for a
23 party to the suit, any attorney for a child who is the subject of the
24 suit, and any party to the suit who does not have an attorney:

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

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

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

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

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

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

14 (1) the court finds that:

15 (A) the person has no conflict of interest with a
16 party to the suit or a child who is the subject of the suit;

17 (B) the person's previous knowledge of a party to
18 the suit or a child who is the subject of the suit is not relevant;

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

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

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

26 (c) After being appointed as an adoption evaluator in a
27 suit, a person shall immediately disclose to the court, each

1 attorney for a party to the suit, any attorney for a child who is the
2 subject of the suit, and any party to the suit who does not have an
3 attorney any discovery of:

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

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

10 (d) A person shall resign from the person's appointment as
11 an adoption evaluator in a suit if the person makes any of the
12 disclosures in Subsection (c) 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 the subject of the suit; and

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

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

22 (e) An individual may not be appointed as an adoption
23 evaluator in a suit if the individual has worked in a professional
24 capacity with a party to the suit, a child who is the subject of the
25 suit, or a member of the party's or child's family who is involved in
26 the suit. This subsection does not apply to an individual who has
27 worked in a professional capacity with a party, a child, or a member

1 of the party's or child's family only as a teacher of parenting
2 skills in a group setting, with no individualized interaction with
3 any party, the child, any party's family, or the child's family, or
4 as a child custody evaluator or adoption evaluator who performed a
5 previous evaluation. For purposes of this subsection, "family" has
6 the meaning assigned by Section 71.003.

7 Sec. 107.157. REPORTING CERTAIN PLACEMENTS FOR ADOPTION.

8 An adoption evaluator shall report to the department any adoptive
9 placement that appears to have been made by someone other than a
10 licensed child-placing agency or a child's parent or managing
11 conservator.

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

20 (b) A court may impose requirements or adopt local rules
21 applicable to an adoption evaluation or an adoption evaluator that
22 do not conflict with this subchapter.

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

26 (d) An adoption evaluator shall disclose to each attorney of
27 record any communication regarding a substantive issue between the

1 evaluator and an attorney of record representing a party in a
2 contested suit. This subsection does not apply to a communication
3 between an adoption evaluator and an amicus attorney.

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

8 (f) An adoption evaluator shall state the basis for the
9 evaluator's conclusions or recommendations in any report prepared
10 on the evaluation.

11 (g) An adoption evaluation report must include for each
12 adoption evaluator who conducted any portion of the adoption
13 evaluation:

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

16 (2) a statement that the adoption evaluator:

17 (A) has read and meets the requirements of
18 Section 107.154; or

19 (B) was appointed under Section 107.155.

20 Sec. 107.159. REQUIREMENTS FOR PRE-PLACEMENT PORTION OF
21 ADOPTION EVALUATION AND REPORT. (a) Unless otherwise agreed to by
22 the court, the pre-placement part of an adoption evaluation must
23 comply with the minimum requirements for the pre-placement part of
24 an adoption evaluation under rules adopted by the executive
25 commissioner of the Health and Human Services Commission.

26 (b) Unless a child who is the subject of the suit begins to
27 reside in a prospective adoptive home before the suit is commenced,

1 an adoption evaluator shall file with the court a report containing
2 the evaluator's findings and conclusions made after completion of
3 the pre-placement portion of the adoption evaluation.

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

9 (d) The report required under this section must be filed
10 with the court before the court may sign the final order for
11 termination of the parent-child relationship. The report shall be
12 included in the record of the suit.

13 (e) A copy of the report prepared under this section must be
14 made available to the prospective adoptive parents before the court
15 renders a final order of adoption.

16 Sec. 107.160. REQUIREMENTS FOR POST-PLACEMENT PORTION OF
17 ADOPTION EVALUATION AND REPORT. (a) Unless otherwise agreed to by
18 the court, the post-placement part of an adoption evaluation must
19 comply with the minimum requirements for the post-placement part of
20 an adoption evaluation under rules adopted by the executive
21 commissioner of the Health and Human Services Commission.

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

26 (c) The report required under this section must be filed
27 with the court before the court renders a final order of adoption.

1 The report shall be included in the record of the suit.

2 (d) A copy of the report prepared under this section must be
3 made available to the prospective adoptive parents before the court
4 renders a final order of adoption.

5 Sec. 107.161. INTRODUCTION AND PROVISION OF ADOPTION
6 EVALUATION REPORT AND TESTIMONY RELATING TO ADOPTION EVALUATION.

7 (a) Disclosure to the jury of the contents of an adoption
8 evaluation report prepared under Section 107.159 or 107.160 is
9 subject to the rules of evidence.

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

14 Sec. 107.162. ADOPTION EVALUATION FEE. If the court orders
15 an adoption evaluation to be conducted, the court shall award the
16 adoption evaluator a reasonable fee for the preparation of the
17 evaluation that shall be imposed in the form of a money judgment and
18 paid directly to the evaluator. The evaluator may enforce the
19 judgment for the fee by any means available under law for civil
20 judgments.

21 Sec. 107.163. ADOPTION EVALUATOR ACCESS TO INVESTIGATIVE
22 RECORDS OF DEPARTMENT; OFFENSE. (a) An adoption evaluator is
23 entitled to obtain from the department a complete, unredacted copy
24 of any investigative record regarding abuse or neglect that relates
25 to any person residing in the residence subject to the adoption
26 evaluation.

27 (b) Except as provided by this section, records obtained by

1 an adoption evaluator from the department under this section are
2 confidential and not subject to disclosure under Chapter 552,
3 Government Code, or to disclosure in response to a subpoena or a
4 discovery request.

5 (c) An adoption evaluator may disclose information obtained
6 under Subsection (a) in the adoption evaluation report prepared
7 under Section 107.159 or 107.160 only to the extent the evaluator
8 determines that the information is relevant to the adoption
9 evaluation or a recommendation made under this subchapter.

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

14 SUBCHAPTER F. EVALUATIONS IN CONTESTED ADOPTIONS

15 Sec. 107.201. APPLICABILITY. This subchapter does not
16 apply to services provided in accordance with the Interstate
17 Compact on the Placement of Children adopted under Subchapter B,
18 Chapter 162, to an evaluation conducted in accordance with Section
19 262.114 by an employee of or contractor with the department, or to a
20 suit in which the Department of Family and Protective Services is a
21 party.

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

27 (b) If the court is attempting to determine whether

1 termination of parental rights is in the best interest of a child
2 who is the subject of the suit, the court shall order the evaluation
3 as a child custody evaluation under Subchapter D and include
4 termination as one of the specific issues to be addressed in the
5 evaluation.

6 (c) When appointing an evaluator to assess the issue of
7 termination of parental rights, the court may, through written
8 order, modify the requirements of the child custody evaluation to
9 take into account the circumstances of the family to be assessed.
10 The court may also appoint the evaluator to concurrently address
11 the requirements for an adoption evaluation under Subchapter E if
12 the evaluator recommends that termination of parental rights is in
13 the best interest of the child who is the subject of the suit.

14 (d) If the court is attempting to determine whether the
15 parties seeking adoption would be suitable to adopt the child who is
16 the subject of the suit if the termination of parental rights is
17 granted, but the court is not attempting to determine whether such
18 termination of parental rights is in the child's best interest, the
19 court may order the evaluation as an adoption evaluation under
20 Subchapter E.

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

23 SECTION 2.01. Chapter 104, Family Code, is amended by
24 adding Section 104.008 to read as follows:

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

1 a suit unless the person has conducted a child custody evaluation
2 relating to the child under Subchapter D, Chapter 107.

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

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

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

11 SECTION 3.01. Section 153.605(d), Family Code, is amended
12 to read as follows:

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

19 SECTION 3.02. Section 162.0025, Family Code, is amended to
20 read as follows:

21 Sec. 162.0025. ADOPTION SOUGHT BY MILITARY SERVICE MEMBER.
22 In a suit for adoption, the fact that a petitioner is a member of the
23 armed forces of the United States, a member of the Texas National
24 Guard or the National Guard of another state, or a member of a
25 reserve component of the armed forces of the United States may not
26 be considered by the court, or any person performing an adoption
27 evaluation [~~a social study~~] or home screening, as a negative factor

1 in determining whether the adoption is in the best interest of the
2 child or whether the petitioner would be a suitable parent.

3 SECTION 3.03. Section [162.003](#), Family Code, is amended to
4 read as follows:

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

9 SECTION 3.04. Section [162.0045](#), Family Code, is amended to
10 read as follows:

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

17 SECTION 3.05. Section [203.004\(a\)](#), Family Code, is amended
18 to read as follows:

19 (a) A domestic relations office may:

20 (1) collect and disburse child support payments that
21 are ordered by a court to be paid through a domestic relations
22 registry;

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

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

26 (A) establish paternity;

27 (B) enforce a court order for child support or

1 for possession of and access to a child; and
2 (C) modify or clarify an existing child support
3 order;
4 (4) provide an informal forum in which alternative
5 dispute resolution is used to resolve disputes under this code;
6 (5) prepare a court-ordered child custody evaluation
7 or adoption evaluation [~~social study~~] under Chapter 107;
8 (6) represent a child as an amicus attorney, an
9 attorney ad litem, or a guardian ad litem in a suit in which:
10 (A) termination of the parent-child relationship
11 is sought; or
12 (B) conservatorship of or access to a child is
13 contested;
14 (7) serve as a friend of the court;
15 (8) provide predivorce counseling ordered by a court;
16 (9) provide community supervision services under
17 Chapter 157;
18 (10) provide information to assist a party in
19 understanding, complying with, or enforcing the party's duties and
20 obligations under Subdivision (3);
21 (11) provide, directly or through a contract,
22 visitation services, including supervision of court-ordered
23 visitation, visitation exchange, or other similar services;
24 (12) issue an administrative writ of withholding under
25 Subchapter F, Chapter 158; and
26 (13) provide parenting coordinator services under
27 Chapter 153.

1 SECTION 3.06. Section 203.005(a), Family Code, is amended
2 to read as follows:

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

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

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

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

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

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

20 (6) community supervision fees as provided by Chapter
21 157 if community supervision officers are employed by the domestic
22 relations office;

23 (7) a reasonable fee for preparation of a
24 court-ordered child custody evaluation or adoption evaluation
25 ~~[social study]~~;

26 (8) in a county that provides visitation services
27 under Sections 153.014 and 203.004 a reasonable fee to be paid to

1 the domestic relations office at the time the visitation services
2 are provided;

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

6 (10) a reasonable fee for parenting coordinator
7 services; and

8 (11) a reasonable fee for alternative dispute
9 resolution services.

10 SECTION 3.07. Sections 411.1285(a) and (c), Government
11 Code, are amended to read as follows:

12 (a) A domestic relations office created under Chapter 203,
13 Family Code, is entitled to obtain from the department criminal
14 history record information that relates to a person who is a party
15 to a proceeding in which the domestic relations office is providing
16 services permitted under Chapter 203, Family Code, or a person
17 involved in a child custody evaluation under Chapter 107, Family
18 Code, in which the domestic relations office has been appointed to
19 conduct the child custody evaluation.

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

1 criminal history record information.

2 SECTION 3.08. Section 152.06331(f), Human Resources Code,
3 is amended to read as follows:

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

10 ARTICLE 4. REPEALERS

11 SECTION 4.01. Sections 107.0515, 107.0519, 107.052, and
12 107.053, Family Code, are repealed.

13 ARTICLE 5. TRANSITION AND EFFECTIVE DATE

14 SECTION 5.01. (a) Not later than September 1, 2016, the
15 Texas State Board of Examiners of Psychologists, the Texas State
16 Board of Examiners of Professional Counselors, the Texas State
17 Board of Social Worker Examiners, the Texas State Board of
18 Examiners of Marriage and Family Therapists, and the Texas Medical
19 Board shall adopt any rules necessary for license holders to comply
20 with the requirements of Subchapter D, Chapter 107, Family Code, as
21 amended by this Act, and Subchapters E and F, Chapter 107, Family
22 Code, as added by this Act, and specifying that a person licensed by
23 any of the boards is subject to the rules of the board that licensed
24 the person when appointed by a court to conduct a child custody
25 evaluation under Subchapter D, Chapter 107, Family Code, as amended
26 by this Act, or adoption evaluation under Subchapter E, Chapter
27 107, Family Code, as added by this Act. The rules adopted under this

1 subsection must:

2 (1) specify that any complaint relating to the outcome
3 of a child custody evaluation, adoption evaluation, or other
4 forensic service conducted by a person licensed by any of the boards
5 must be reported to the court that ordered the evaluation or other
6 forensic services; and

7 (2) require that license holders receive notice that
8 the disclosure of confidential information in violation of Section
9 107.111 or 107.163, Family Code, as added by this Act, is grounds
10 for disciplinary action.

11 (b) Subsection (a) of this section does not affect the
12 authority of a licensing agency that issues a license to a child
13 custody evaluator to enforce compliance with state law and
14 administrative rules applicable to the license holder.

15 (c) As soon as possible after the effective date of this
16 Act, the Texas State Board of Examiners of Psychologists, the Texas
17 State Board of Examiners of Professional Counselors, and the Texas
18 State Board of Examiners of Marriage and Family Therapists shall
19 adopt rules prohibiting a psychological associate, a licensed
20 specialist in school psychology, a provisionally licensed
21 psychologist, a licensed professional counselor intern, and a
22 licensed marriage and family therapist associate from conducting a
23 child custody evaluation under Subchapter D, Chapter 107, Family
24 Code, as amended by this Act, unless the person is otherwise
25 qualified to conduct the evaluation.

26 (d) As soon as possible after the effective date of this
27 Act, the executive commissioner of the Health and Human Services

1 Commission shall adopt rules prohibiting a licensed chemical
2 dependency counselor from conducting a child custody evaluation as
3 a child custody evaluator under Subchapter D, Chapter 107, Family
4 Code, as amended by this Act, unless the person is otherwise
5 qualified to conduct the evaluation or is appointed by a court to
6 conduct the evaluation under Section 107.106, Family Code, as added
7 by this Act.

8 (e) Not later than September 1, 2016, the executive
9 commissioner of the Health and Human Services Commission shall
10 adopt any rules necessary to implement Subchapter E, Chapter 107,
11 Family Code, as added by this Act. Subchapter E, Chapter 107,
12 Family Code, as added by this Act, applies to an adoption evaluation
13 ordered by a court on or after September 1, 2016, or the date the
14 executive commissioner adopts rules under this subsection,
15 whichever date occurs first. An adoption evaluation, pre-placement
16 adoptive social study, or post-placement adoptive social study
17 ordered by a court before that date is governed by the law in effect
18 immediately before the effective date of this Act, and the former
19 law is continued in effect for that purpose.

20 SECTION 5.02. (a) Notwithstanding any other law, a person
21 is qualified to conduct a child custody evaluation under Section
22 107.104, Family Code, as redesignated and amended by this Act, or an
23 adoption evaluation under Section 107.154, Family Code, as added by
24 this Act, without satisfying the supervision requirements of
25 Section 107.104(b)(1) or (2) if, on or before the effective date of
26 this Act, the person completes at least 10 social studies or other
27 child custody evaluations ordered by a court in suits affecting the

1 parent-child relationship.

2 (b) Notwithstanding any other law, a person who is qualified
3 to conduct a social study evaluation under former Section
4 [107.0511\(g\)](#), Family Code, is authorized to conduct a child custody
5 evaluation before September 1, 2017, without meeting the
6 requirements under Section 107.104, Family Code, as redesignated
7 and amended by this Act, and the former law is continued in effect
8 for that purpose.

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

13 SECTION 5.04. This Act takes effect September 1, 2015.