

By: Rodríguez

S.B. No. 820

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.

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

26 (6) "Supervision" means the regular review of and  
27 consultation with a person. The term does not require the constant

1 physical presence of the person providing supervision and may  
2 include telephonic or electronic communication.

3 SECTION 1.04. Subchapter D, Chapter 107, Family Code, is  
4 amended by adding Section 107.102 to read as follows:

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

11 (b) Home studies and other evaluations by the department are  
12 not required to comply with this subchapter.

13 (c) The department is not required to:

14 (1) obtain a child custody evaluation in cases in  
15 which the department is a party; and

16 (2) pay for any part of the cost of a child custody  
17 evaluation in a case in which the department is a party, unless the  
18 department requests the child custody evaluation.

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

21 Sec. 107.103 [~~107.051~~]. ORDER FOR CHILD CUSTODY EVALUATION  
22 [~~SOCIAL STUDY~~]. (a) The court, after notice and hearing, may order  
23 the preparation of a child custody evaluation regarding:

24 (1) [~~social study into~~] the circumstances and  
25 condition of:

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

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

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

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

6           (b) The court may not appoint a child custody evaluator in a  
7 suit involving a nonparent seeking conservatorship of a child  
8 unless, after notice and hearing, the court finds that good cause  
9 has been shown for the appointment of a child custody evaluator  
10 [~~social study may be made by a private entity, a person appointed by~~  
11 ~~the court, a domestic relations office, or a state agency,~~  
12 ~~including the Department of Family and Protective Services if the~~  
13 ~~department is a party to the suit].~~

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

15           (1) the name of each person who will conduct the  
16 evaluation;

17           (2) the purpose of the evaluation; and

18           (3) the specific issues or questions to be addressed  
19 in the evaluation [~~In a suit in which adoption is requested or~~  
20 ~~conservatorship of, possession of, or access to a child is an issue~~  
21 ~~and in which a social study has been ordered and the Department of~~  
22 ~~Family and Protective Services is not a party, the court shall~~  
23 ~~appoint a private agency, another person, or a domestic relations~~  
24 ~~office to conduct the social study].~~

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

1 SECTION 1.06. Section 107.0511, Family Code, is  
2 redesignated as Section 107.104, Family Code, and amended to read  
3 as follows:

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

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

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

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

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

16 [~~(2) in connection with an adoption governed by rules~~  
17 ~~adopted under Section 107.0519(a);~~

18 [~~(3) as an employee or other authorized representative~~  
19 ~~of a licensed child-placing agency; or~~

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

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

27 [~~(d)~~] To be qualified to conduct a child custody evaluation

1 ~~[social study]~~ under this subchapter, an individual must:

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

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

16 (B) after obtaining a license required by this  
17 subdivision, have performed ~~[participated in the performance of]~~ at  
18 least 10 court-ordered child custody evaluations ~~[social studies]~~  
19 under the supervision of an individual qualified under this  
20 section;

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

25 (3) be employed by or under contract with a domestic  
26 relations office, provided that the individual conducts child  
27 custody evaluations ~~[social studies]~~ relating only to families

1 ordered by a court to participate in child custody evaluations  
2 [~~social studies~~] conducted by the domestic relations office.

3 (c) [~~(e)~~] ~~If an individual meeting the requirements of this~~  
4 ~~section is not available in the county served by the court, the~~  
5 ~~court may authorize an individual determined by the court to be~~  
6 ~~otherwise qualified to conduct the social study.~~

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

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

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

17 [~~(2)~~] ~~received a four-year degree from an accredited~~  
18 ~~institution of higher education;~~

19 [~~(3)~~] ~~worked as a child protective services~~  
20 ~~investigator for the Department of Family and Protective Services~~  
21 ~~for at least four years;~~

22 [~~(4)~~] ~~worked as a community supervision and corrections~~  
23 ~~department officer; and~~

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

26 [~~(h)~~] ~~A person described by Subsection (g) who performs a~~  
27 ~~social study must:~~

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

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

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

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

15           Sec. 107.105. CHILD CUSTODY EVALUATION: SPECIALIZED  
16 TRAINING REQUIRED. (a) The court shall determine whether the  
17 qualifications of a child custody evaluator satisfy the  
18 requirements of this subchapter.

19           (b) A child custody evaluator must demonstrate, if  
20 requested, appropriate knowledge and competence in child custody  
21 evaluation services consistent with professional models,  
22 standards, and guidelines.

23           Sec. 107.106. EXCEPTION TO QUALIFICATIONS REQUIRED TO  
24 CONDUCT CHILD CUSTODY EVALUATION. In a county with a population of  
25 less than 500,000, if a court finds that an individual who meets the  
26 requirements of Section 107.104 is not available in the county to  
27 conduct a child custody evaluation in a timely manner, the court,



1 after notice and hearing, may appoint an individual the court  
2 determines to be otherwise qualified to conduct the evaluation if  
3 the parties to the suit agree to the appointment in writing.

4 SECTION 1.08. Section 107.0512, Family Code, is  
5 redesignated as Section 107.107, Family Code, and amended to read  
6 as follows:

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

13 (1) any [who has a] conflict of interest that the  
14 person believes the person has with any party to the [in a disputed]  
15 suit or a child who is the subject of the suit;

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

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

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

24 (5) any other information relating to the person's  
25 relationship with an attorney in the suit that a reasonable,  
26 prudent person would believe would affect the ability of the person  
27 to act impartially in conducting a child custody evaluation[7

1 ~~shall:~~

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

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

8 (1) the court finds that:

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

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

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

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

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

20 (c) After being appointed as a child custody evaluator in a  
21 suit, a person shall immediately disclose to the court, each  
22 attorney for a party to the suit, any attorney for a child who is the  
23 subject of the suit, and any party to the suit who does not have an  
24 attorney any discovery of:

25 (1) a 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; and

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

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

7           (1) the court finds that:

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

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

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

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

20           (f) A person may not be appointed as a child custody  
21 evaluator in a suit if the person has worked in a professional  
22 capacity with a party to the suit, a child who is the subject of the  
23 suit, or a member of the party's or child's family who is involved in  
24 the suit. This subsection does not apply to a person who has worked  
25 in a professional capacity with a party, a child, or a member of the  
26 party's or child's family only as a teacher of parenting skills in a  
27 group setting, with no individualized interaction with any party,

1 the child, any party's family, or the child's family, or as a child  
2 custody evaluator who performed a previous evaluation. For  
3 purposes of this subsection, "family" has the meaning assigned by  
4 Section 71.003.

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

10 SECTION 1.09. Section 107.0513, Family Code, is  
11 redesignated as Section 107.108, Family Code, and amended to read  
12 as follows:

13 Sec. 107.108 [107.0513]. GENERAL PROVISIONS APPLICABLE TO  
14 CONDUCT OF CHILD CUSTODY EVALUATION [~~SOCIAL STUDY~~] AND PREPARATION  
15 OF REPORT. (a) Unless otherwise directed by a court or prescribed  
16 by a provision of this title, a child custody [~~social study~~]  
17 evaluator's actions in conducting a child custody evaluation must  
18 [~~social study shall~~] be in conformance with the professional  
19 standard of care applicable to the evaluator's licensure and any  
20 administrative rules, ethical standards, or guidelines adopted by  
21 the licensing authority [~~state agency~~] that licenses the evaluator.

22 (b) A [~~In addition to the requirements prescribed by this~~  
23 ~~subchapter, a~~] court may impose requirements or adopt local rules  
24 applicable to a child custody evaluation [~~social study~~] or a child  
25 custody [~~social study~~] evaluator that do not conflict with this  
26 subchapter.

27 (c) A child custody [~~social study~~] evaluator shall follow

1 evidence-based practice methods and make use of current best  
2 evidence in making assessments and recommendations.

3 (d) A child custody [~~social study~~] evaluator shall disclose  
4 to each attorney of record any communication regarding a  
5 substantive issue between the evaluator and an attorney of record  
6 representing a party in a contested [~~disputed~~] suit. This  
7 subsection does not apply to a communication between a child  
8 custody [~~social study~~] evaluator and an attorney ad litem or amicus  
9 attorney.

10 (e) To the extent possible, a child custody [~~social study~~]  
11 evaluator shall verify each statement of fact pertinent to a child  
12 custody evaluation [~~social study~~] and shall note the sources of  
13 verification and information in the child custody evaluation report  
14 prepared under Section 107.113.

15 (f) A child custody [~~social study~~] evaluator shall state the  
16 basis for the evaluator's conclusions or recommendations, and the  
17 extent to which information obtained limits the reliability and  
18 validity of the opinion and the conclusions and recommendations of  
19 the evaluator, in the child custody evaluation report prepared  
20 under Section 107.113. A child custody [~~social study~~] evaluator  
21 who has evaluated only one side of a contested suit [~~disputed case~~]  
22 shall refrain from making a recommendation regarding  
23 conservatorship of a child or possession of or access to a child,  
24 but may state whether any information obtained regarding a child's  
25 placement with a party indicates concerns for the safety of the  
26 child or the party's apparent parenting skills or capability [~~the~~  
27 ~~party evaluated appears to be suitable for conservatorship~~].

1 (g) A child custody evaluation [~~Each social study subject to~~  
2 ~~this subchapter~~] must be conducted in compliance with this  
3 subchapter, regardless of whether the child custody evaluation  
4 [~~study~~] is conducted:

5 (1) by a single child custody [~~social study~~] evaluator  
6 or multiple evaluators working separately or together; or

7 (2) within a county served by the court with  
8 continuing jurisdiction or at a geographically distant location.

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

12 (1) the name and[~~τ~~] license number of the child  
13 custody evaluator;~~[τ]~~ and

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

15 (A) meets the requirements of [~~basis for~~  
16 ~~qualification under~~] Section 107.104; or

17 (B) was appointed under Section 107.106

18 [~~107.0511 of each social study evaluator who conducted any portion~~  
19 ~~of the social study~~].

20 SECTION 1.10. Section 107.0514, Family Code, is  
21 redesignated as Section 107.109, Family Code, and amended to read  
22 as follows:

23 Sec. 107.109 [~~107.0514~~]. ELEMENTS OF CHILD CUSTODY  
24 EVALUATION [~~SOCIAL STUDY~~]. (a) A child custody evaluator may not  
25 offer an opinion regarding conservatorship of a child who is the  
26 subject of a suit or possession of or access to the child unless  
27 each basic element of a child custody evaluation as described by

1 this section has been completed.

2 (b) A child custody evaluator shall:

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

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

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

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

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

14 (2) an interview, conducted in a developmentally  
15 appropriate manner, of each child who is the subject of [at issue  
16 in] the suit and [who] is at least four years of age, in the presence  
17 of each party to the suit;

18 (3) observation of each child who is the subject of [at  
19 issue in] the suit, regardless of the age of the child, in the  
20 presence of each party to the suit, unless contact between a party  
21 and a child is prohibited by court order or the person conducting  
22 the evaluation has good cause for not conducting the observation  
23 and states the good cause in writing provided to the parties to the  
24 suit before the completion of the evaluation;

25 (4) an interview and observation of any child who is  
26 not a subject of the suit who lives on a full-time basis in the  
27 residence that is the subject of the evaluation;

1           (5) the obtaining of information by reviewing [~~from~~]  
2 relevant collateral sources, including:

3                   (A) relevant school records;

4                   (B) relevant physical and mental health records  
5 of each party to the suit and each child who is the subject of the  
6 suit;

7                   (C) relevant records of the department,  
8 including records maintained as part of the central registry  
9 established by Section 261.002 and criminal history record  
10 information relating to each child who is the subject of the suit,  
11 each party to the suit, and each person who lives with a party to the  
12 suit; and

13                   (D) any other collateral source that may have  
14 relevant information;

15           (6) [~~(5)~~] evaluation of the home environment of each  
16 party seeking conservatorship of a child who is the subject of [~~at~~  
17 ~~issue in~~] the suit or possession of or access to the child, unless  
18 the condition of the home environment is identified as not being in  
19 dispute in the court order requiring the child custody evaluation  
20 [~~social study~~];

21           (7) [~~(6)~~] for each individual residing in a residence  
22 subject to the child custody evaluation [~~social study~~],  
23 consideration of any criminal history record information and any  
24 contact with the department [~~Department of Family and Protective~~  
25 ~~Services~~] or a law enforcement agency regarding abuse or neglect;  
26 and

27           (8) [~~(7)~~] assessment of the relationship between each



1 child who is the subject of [~~at issue in~~] the suit and each party  
2 seeking possession of or access to the child.

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

5 (1) balanced interviews and observation of each child  
6 who is the subject of [~~at issue in~~] the suit so that a child who is  
7 interviewed or observed while in the care of one party to the suit  
8 is also interviewed or observed while in the care of each other  
9 party to the suit;

10 (2) an interview of each individual, including a  
11 child, residing on a full-time or part-time basis in a residence  
12 subject to the child custody evaluation [~~social study~~]; [~~and~~]

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

17 (4) observation of each party to the suit with each  
18 child who is the subject of the suit, including, as appropriate,  
19 during supervised visitation, unless contact between a party and a  
20 child is prohibited by court order or the person conducting the  
21 evaluation has good cause for not conducting the observation and  
22 states the good cause in writing provided to the parties to the suit  
23 before the completion of the evaluation;

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

1           (6) the performance of other tasks requested of the  
2 evaluator by the court, including:

3                   (A) a joint interview of the parties to the suit;

4 or

5                   (B) the review of any other information that the  
6 court determines is relevant.

7           ~~[(c) A social study evaluator may not offer an opinion~~  
8 ~~regarding conservatorship of a child at issue in a suit or~~  
9 ~~possession of or access to the child unless each basic element of a~~  
10 ~~social study under Subsection (a) has been completed. A social~~  
11 ~~study evaluator shall identify in the report any additional element~~  
12 ~~of a social study under Subsection (b) that was not completed and~~  
13 ~~shall explain the reasons that the element was not completed.]~~

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

16           Sec. 107.110. PSYCHOMETRIC TESTING. (a) A child custody  
17 evaluator may conduct psychometric testing as part of a child  
18 custody evaluation if:

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

21                   (2) the child custody evaluator is:

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

24 and

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

27           (b) Selection of a specific psychometric test is at the

1 professional discretion of the child custody evaluator based on the  
2 specific issues raised in the suit.

3 SECTION 1.12. Section 107.05145, Family Code, is  
4 redesignated as Section 107.111, Family Code, and amended to read  
5 as follows:

6 Sec. 107.111 [107.05145]. CHILD CUSTODY [~~SOCIAL STUDY~~]  
7 EVALUATOR ACCESS TO INVESTIGATIVE RECORDS OF DEPARTMENT [~~OF FAMILY~~  
8 ~~AND PROTECTIVE SERVICES~~]; OFFENSE. (a) A child custody [~~social~~  
9 ~~study~~] evaluator appointed by a court is entitled to obtain from the  
10 department [~~Department of Family and Protective Services~~] a  
11 complete, unredacted copy of any investigative record regarding  
12 abuse or neglect that relates to any person residing in the  
13 residence subject to the child custody evaluation [~~social study~~].

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

20 (c) A child custody [~~social study~~] evaluator may disclose  
21 information obtained under Subsection (a) in the child custody  
22 evaluation [~~social study~~] report prepared under Section 107.113  
23 only to the extent the evaluator determines that the information is  
24 relevant to the child custody evaluation [~~social study~~] or a  
25 recommendation made under this subchapter.

26 (d) A person commits an offense if the person knowingly  
27 discloses confidential information obtained from the department

1 ~~[Department of Family and Protective Services]~~ in violation of this  
2 section. An offense under this subsection is a Class A misdemeanor.

3 SECTION 1.13. Subchapter D, Chapter 107, Family Code, is  
4 amended by adding Section 107.112 to read as follows:

5 Sec. 107.112. COMMUNICATIONS AND RECORDKEEPING OF CHILD  
6 CUSTODY EVALUATOR. (a) Notwithstanding any rule, standard of  
7 care, or privilege applicable to the professional license held by a  
8 child custody evaluator, a communication made by a participant in a  
9 child custody evaluation is subject to disclosure and may be  
10 offered in any judicial or administrative proceeding if otherwise  
11 admissible under the rules of evidence.

12 (b) A child custody evaluator shall:

13 (1) keep a detailed record of interviews that the  
14 evaluator conducts, observations that the evaluator makes, and  
15 substantive interactions that the evaluator has as part of a child  
16 custody evaluation; and

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

19 (c) Except for records obtained from the department in  
20 accordance with Section 107.111, a private child custody evaluator  
21 shall, after completion of an evaluation and preparation of a child  
22 custody evaluation report under Section 107.113, make available in  
23 a reasonable time the evaluator's records relating to the  
24 evaluation on the written request of an attorney for a party, a  
25 party who does not have an attorney, and any person appointed under  
26 this chapter in the suit in which the evaluator conducted the  
27 evaluation, unless a court has issued an order restricting

1 disclosure of the records.

2 (d) Except for records obtained from the department in  
3 accordance with Section 107.111, records relating to a child  
4 custody evaluation conducted by an employee of or contractor with a  
5 domestic relations office shall, after completion of the evaluation  
6 and preparation of a child custody evaluation report under Section  
7 107.113, be made available on written request according to the  
8 local rules and policies of the office.

9 (e) A person maintaining records subject to disclosure  
10 under this section may charge a reasonable fee for producing the  
11 records before copying the records.

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

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

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

24 SECTION 1.14. Section 107.054, Family Code, is redesignated  
25 as Section 107.113, Family Code, and amended to read as follows:

26 Sec. 107.113 [107.054]. CHILD CUSTODY EVALUATION REPORT  
27 REQUIRED [~~FILED WITH COURT~~]. (a) A child custody evaluator who

1 conducts a child custody evaluation shall prepare and file a report  
2 containing the evaluator's findings, opinions, recommendations,  
3 and answers to specific questions asked by the court relating to the  
4 evaluation.

5 (b) The ~~[agency or]~~ person conducting a child custody  
6 evaluation ~~[making the social study]~~ shall file with the court on a  
7 date set by the court a report containing the person's ~~[its]~~  
8 findings and conclusions. The report shall be made a part of the  
9 record of the suit.

10 (c) If the suit is settled before completion of the child  
11 custody evaluation report, the report under this section is not  
12 required.

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

16 SECTION 1.15. Section [107.055](#), Family Code, is redesignated  
17 as Section 107.114, Family Code, and amended to read as follows:

18 Sec. [107.114](#) [[107.055](#)]. INTRODUCTION AND PROVISION OF  
19 CHILD CUSTODY EVALUATION REPORT ~~[AT TRIAL]~~. (a) Disclosure to the  
20 jury of the contents of a child custody evaluation report prepared  
21 under Section 107.113 ~~[to the court of a social study]~~ is subject to  
22 the rules of evidence.

23 (b) Unless the court has rendered an order restricting  
24 disclosure, a private child custody evaluator shall provide to the  
25 attorneys of the parties to a suit, any party who does not have an  
26 attorney, and any other person appointed by the court under this  
27 chapter in a suit a copy ~~[In a contested case, the agency or person~~

1 ~~making the social study shall furnish copies]~~ of the child custody  
2 evaluation report [~~to the attorneys for the parties]~~ before the  
3 earlier of:

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

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

8 (c) 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 to the attorneys of the parties to a  
11 suit and any person appointed in the suit under this chapter a copy  
12 of the child custody evaluation report before the earlier of:

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

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

16 (d) A child custody evaluator who conducts a child custody  
17 evaluation as an employee of or under contract with a domestic  
18 relations office shall provide a copy of the report to a party to  
19 the suit as provided by the local rules and policies of the office  
20 or by a court order [~~The court may compel the attendance of~~  
21 ~~witnesses necessary for the proper disposition of the suit,~~  
22 ~~including a representative of the agency making the social study,~~  
23 ~~who may be compelled to testify].~~

24 SECTION 1.16. Section 107.056, Family Code, is redesignated  
25 as Section 107.115, Family Code, and amended to read as follows:

26 Sec. 107.115 [107.056]. CHILD CUSTODY EVALUATION  
27 [PREPARATION] FEE. If the court orders a child custody evaluation

1 ~~[social study]~~ to be conducted, the court shall award the ~~[agency or~~  
2 ~~other]~~ person appointed as the child custody evaluator a reasonable  
3 fee for the preparation of the child custody evaluation ~~[study]~~  
4 that shall be imposed in the form of a money judgment and paid  
5 directly to the ~~[agency or other]~~ person. The person ~~[or agency]~~  
6 may enforce the judgment for the fee by any means available under  
7 law for civil judgments.

8 SECTION 1.17. Chapter 107, Family Code, is amended by  
9 adding Subchapters E and F to read as follows:

10 SUBCHAPTER E. ADOPTION EVALUATION

11 Sec. 107.151. DEFINITIONS. In this subchapter:

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

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

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

20 (4) "Supervision" means the regular review of and  
21 consultation with a person. The term does not require the constant  
22 physical presence of the person providing supervision and may  
23 include telephonic or electronic communication.

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



1 evaluation conducted in accordance with Section 262.114 by an  
2 employee of or contractor with the department.

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

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

10 (d) In a suit involving a licensed child-placing agency or  
11 the department, a licensed child-placing agency or the department  
12 shall conduct the pre-placement and post-placement parts of the  
13 adoption evaluation and file reports on those parts with the court  
14 before the court renders a final order of adoption.

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

18 (1) a party to the suit; or

19 (2) the managing conservator of the child who is the  
20 subject of the suit.

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

25 (1) termination of the parent-child relationship in  
26 which a person other than a parent may be appointed managing  
27 conservator of a child; or

1           (2) an adoption.

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

6           (c) The court may appoint a qualified individual, a  
7 qualified private entity, or a domestic relations office to conduct  
8 the adoption evaluation.

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

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

14           Sec. 107.154. ADOPTION EVALUATOR: MINIMUM QUALIFICATIONS.

15           (a) In this section:

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

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

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

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

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

3           (B) be practicing under the direct supervision of  
4 a person qualified under this section to conduct adoption  
5 evaluations;

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

10           (3) be qualified as a child custody evaluator under  
11 Section 107.104.

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

17           Sec. 107.155. EXCEPTION TO QUALIFICATIONS REQUIRED TO  
18 CONDUCT ADOPTION EVALUATION. In a county with a population of less  
19 than 500,000, if a court finds that an individual who meets the  
20 requirements of Section 107.154 is not available in the county to  
21 conduct an adoption evaluation in a timely manner, the court, after  
22 notice and hearing, may appoint a person the court determines to be  
23 otherwise qualified to conduct the evaluation if the parties to the  
24 suit agree to the appointment in writing.

25           Sec. 107.156. ADOPTION EVALUATOR: CONFLICTS OF INTEREST AND  
26 BIAS. (a) Before accepting appointment as an adoption evaluator in  
27 a suit, a person must disclose to the court, each attorney for a

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

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

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

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

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

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

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

19 (1) the court finds that:

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

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

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

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

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

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

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

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

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

18           (1) the court finds that:

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

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

23 or

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

27           (e) A person may not be appointed as an adoption evaluator

1 in a suit if the person has worked in a professional capacity with a  
2 party to the suit, a child who is the subject of the suit, or a  
3 member of the party's or child's family who is involved in the suit.  
4 This subsection does not apply to a person who has worked in a  
5 professional capacity with a party, a child, or a member of the  
6 party's or child's family only as a teacher of parenting skills in a  
7 group setting, with no individualized interaction with any party,  
8 the child, any party's family, or the child's family, or as a child  
9 custody evaluator or adoption evaluator who performed a previous  
10 evaluation. For purposes of this subsection, "family" has the  
11 meaning assigned by Section [71.003](#).

12 Sec. 107.157. REPORTING CERTAIN PLACEMENTS FOR ADOPTION.  
13 An adoption evaluator shall report to the department any adoptive  
14 placement that appears to have been made by someone other than a  
15 licensed child-placing agency or a child's parent or managing  
16 conservator.

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

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

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

4       (d) An adoption evaluator shall disclose to each attorney of  
5 record any communication regarding a substantive issue between the  
6 evaluator and an attorney of record representing a party in a  
7 contested suit. This subsection does not apply to a communication  
8 between an adoption evaluator and an amicus attorney.

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

13       (f) An adoption evaluator shall state the basis for the  
14 evaluator's conclusions or recommendations in any report prepared  
15 on the evaluation.

16       (g) An adoption evaluation report must include for each  
17 adoption evaluator who conducted any portion of the adoption  
18 evaluation:

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

21               (2) a statement that the adoption evaluator:

22                       (A) meets the requirements of Section 107.154; or

23                       (B) was appointed under Section 107.155.

24       Sec. 107.159. REQUIREMENTS FOR PRE-PLACEMENT PORTION OF  
25 ADOPTION EVALUATION AND REPORT. (a) Unless otherwise agreed to by  
26 the court, the pre-placement part of an adoption evaluation must  
27 comply with the minimum requirements for the pre-placement part of

1 an adoption evaluation under rules adopted by the executive  
2 commissioner of the Health and Human Services Commission.

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

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

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

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

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

26 (b) An adoption evaluator shall file with the court a report  
27 containing the evaluator's findings and conclusions made after a



1 child who is the subject of the suit in which the evaluation is  
2 ordered begins to reside in a prospective adoptive home.

3 (c) The report required under this section must be filed  
4 with the court before the court renders a final order of adoption.  
5 The report shall be included in the record of the suit.

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

9 Sec. 107.161. INTRODUCTION AND PROVISION OF ADOPTION  
10 EVALUATION REPORT AND TESTIMONY RELATING TO ADOPTION EVALUATION.

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

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

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

25 Sec. 107.163. ADOPTION EVALUATOR ACCESS TO INVESTIGATIVE  
26 RECORDS OF DEPARTMENT; OFFENSE. (a) An adoption evaluator is  
27 entitled to obtain from the department a complete, unredacted copy

1 of any investigative record regarding abuse or neglect that relates  
2 to any person residing in the residence subject to the adoption  
3 evaluation.

4 (b) Except as provided by this section, records obtained by  
5 an adoption evaluator from the department under this section are  
6 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) An adoption evaluator may disclose information obtained  
10 under Subsection (a) in the adoption evaluation report prepared  
11 under Section 107.159 or 107.160 only to the extent the evaluator  
12 determines that the information is relevant to the adoption  
13 evaluation or a recommendation made under this subchapter.

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

18 SUBCHAPTER F. EVALUATIONS IN CONTESTED ADOPTIONS

19 Sec. 107.201. APPLICABILITY. This subchapter does not  
20 apply to services provided in accordance with the Interstate  
21 Compact on the Placement of Children adopted under Subchapter B,  
22 Chapter 162, to an evaluation conducted in accordance with Section  
23 262.114 by an employee of or contractor with the department, or to a  
24 suit in which the Department of Family and Protective Services is a  
25 party.

26 Sec. 107.202. ASSIGNMENT OF EVALUATIONS IN CONTESTED  
27 ADOPTIONS. (a) In a suit in which the adoption of a child is being

1 contested, the court shall determine the nature of the questions  
2 posed before appointing an evaluator to conduct either a child  
3 custody evaluation or an adoption evaluation.

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

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

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

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

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

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

26 Sec. 104.008. CERTAIN TESTIMONY PROHIBITED. (a) A person  
27 may not offer an expert opinion relating to the conservatorship of

1 or possession of or access to a child at issue in a suit unless the  
2 person has conducted a child custody evaluation relating to the  
3 child under Subchapter D, Chapter 107.

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

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

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

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

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

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

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

1 evaluation [~~a social study~~] or home screening, as a negative factor  
2 in determining whether the adoption is in the best interest of the  
3 child or whether the petitioner would be a suitable parent.

4 SECTION 3.03. Section 162.003, Family Code, is amended to  
5 read as follows:

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

10 SECTION 3.04. Section 162.0045, Family Code, is amended to  
11 read as follows:

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

18 SECTION 3.05. Section 203.004(a), Family Code, is amended  
19 to read as follows:

20 (a) A domestic relations office may:

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

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

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

27 (A) establish paternity;

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

3 (C) modify or clarify an existing child support  
4 order;

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

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

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

11 (A) termination of the parent-child relationship  
12 is sought; or

13 (B) conservatorship of or access to a child is  
14 contested;

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

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

17 (9) provide community supervision services under  
18 Chapter 157;

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

22 (11) provide, directly or through a contract,  
23 visitation services, including supervision of court-ordered  
24 visitation, visitation exchange, or other similar services;

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

27 (13) provide parenting coordinator services under

1 Chapter 153.

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

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

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

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

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

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

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

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

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

27 (8) in a county that provides visitation services

1 under Sections 153.014 and 203.004 a reasonable fee to be paid to  
2 the domestic relations office at the time the visitation services  
3 are provided;

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

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

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

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

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

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



1 order or with the consent of the person who is the subject of the  
2 criminal history record information.

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

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

11 ARTICLE 4. REPEALERS

12 SECTION 4.01. Sections 107.0515, 107.0519, 107.052, and  
13 107.053, Family Code, are repealed.

14 ARTICLE 5. TRANSITION AND EFFECTIVE DATE

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

1 107, Family Code, as added by this Act. The rules adopted under this  
2 subsection must:

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

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

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

23 (c) As soon as possible after the effective date of this  
24 Act, the executive commissioner of the Health and Human Services  
25 Commission shall adopt rules prohibiting a licensed chemical  
26 dependency counselor from conducting a child custody evaluation as  
27 a child custody evaluator under Subchapter D, Chapter 107, Family

1 Code, as amended by this Act, unless the person is otherwise  
2 qualified to conduct the evaluation or is appointed by a court to  
3 conduct the evaluation under Section 107.106, Family Code, as added  
4 by this Act.

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

17 SECTION 5.02. (a) Notwithstanding any other law, a person  
18 is qualified to conduct a child custody evaluation under Section  
19 107.104, Family Code, as redesignated and amended by this Act, or an  
20 adoption evaluation under Section 107.154, Family Code, as added by  
21 this Act, without satisfying the supervision requirements of  
22 Section 107.104(b)(1) or (2) if, on or before the effective date of  
23 this Act, the person completes at least 10 social studies or other  
24 child custody evaluations ordered by a court in suits affecting the  
25 parent-child relationship.

26 (b) Notwithstanding any other law, a person who is qualified  
27 to conduct a social study evaluation under former Section

1 107.0511(g), Family Code, is authorized to conduct a child custody  
2 evaluation before September 1, 2017, without meeting the  
3 requirements under Section 107.104, Family Code, as redesignated  
4 and amended by this Act, and the former law is continued in effect  
5 for that purpose.

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

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