

By: Alvarado

H.B. No. 1766

A BILL TO BE ENTITLED

AN ACT

relating to involuntary termination of parental rights based on sexual assault of the child's other parent.

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

SECTION 1. Section 161.001(b), Family Code, is amended to read as follows:

(b) The court may order termination of the parent-child relationship if the court finds by clear and convincing evidence:

(1) that the parent has:

(A) voluntarily left the child alone or in the possession of another not the parent and expressed an intent not to return;

(B) voluntarily left the child alone or in the possession of another not the parent without expressing an intent to return, without providing for the adequate support of the child, and remained away for a period of at least three months;

(C) voluntarily left the child alone or in the possession of another without providing adequate support of the child and remained away for a period of at least six months;

(D) knowingly placed or knowingly allowed the child to remain in conditions or surroundings which endanger the physical or emotional well-being of the child;

(E) engaged in conduct or knowingly placed the child with persons who engaged in conduct which endangers the

1 physical or emotional well-being of the child;

2 (F) failed to support the child in accordance
3 with the parent's ability during a period of one year ending within
4 six months of the date of the filing of the petition;

5 (G) abandoned the child without identifying the
6 child or furnishing means of identification, and the child's
7 identity cannot be ascertained by the exercise of reasonable
8 diligence;

9 (H) voluntarily, and with knowledge of the
10 pregnancy, abandoned the mother of the child beginning at a time
11 during her pregnancy with the child and continuing through the
12 birth, failed to provide adequate support or medical care for the
13 mother during the period of abandonment before the birth of the
14 child, and remained apart from the child or failed to support the
15 child since the birth;

16 (I) contumaciously refused to submit to a
17 reasonable and lawful order of a court under Subchapter D, Chapter
18 [261](#);

19 (J) been the major cause of:

20 (i) the failure of the child to be enrolled
21 in school as required by the Education Code; or

22 (ii) the child's absence from the child's
23 home without the consent of the parents or guardian for a
24 substantial length of time or without the intent to return;

25 (K) executed before or after the suit is filed an
26 unrevoked or irrevocable affidavit of relinquishment of parental
27 rights as provided by this chapter;

1 (L) been convicted or has been placed on
2 community supervision, including deferred adjudication community
3 supervision, for being criminally responsible for the death or
4 serious injury of a child under the following sections of the Penal
5 Code, or under a law of another jurisdiction that contains elements
6 that are substantially similar to the elements of an offense under
7 one of the following Penal Code sections, or adjudicated under
8 Title 3 for conduct that caused the death or serious injury of a
9 child and that would constitute a violation of one of the following
10 Penal Code sections:

- 11 (i) Section 19.02 (murder);
- 12 (ii) Section 19.03 (capital murder);
- 13 (iii) Section 19.04 (manslaughter);
- 14 (iv) Section 21.11 (indecent with a
15 child);
- 16 (v) Section 22.01 (assault);
- 17 (vi) Section 22.011 (sexual assault);
- 18 (vii) Section 22.02 (aggravated assault);
- 19 (viii) Section 22.021 (aggravated sexual
20 assault);
- 21 (ix) Section 22.04 (injury to a child,
22 elderly individual, or disabled individual);
- 23 (x) Section 22.041 (abandoning or
24 endangering child);
- 25 (xi) Section 25.02 (prohibited sexual
26 conduct);
- 27 (xii) Section 43.25 (sexual performance by

1 a child);

2 (xiii) Section 43.26 (possession or
3 promotion of child pornography);

4 (xiv) Section 21.02 (continuous sexual
5 abuse of young child or children);

6 (xv) Section 20A.02(a)(7) or (8)
7 (trafficking of persons); and

8 (xvi) Section 43.05(a)(2) (compelling
9 prostitution);

10 (M) had his or her parent-child relationship
11 terminated with respect to another child based on a finding that the
12 parent's conduct was in violation of Paragraph (D) or (E) or
13 substantially equivalent provisions of the law of another state;

14 (N) constructively abandoned the child who has
15 been in the permanent or temporary managing conservatorship of the
16 Department of Family and Protective Services for not less than six
17 months, and:

18 (i) the department has made reasonable
19 efforts to return the child to the parent;

20 (ii) the parent has not regularly visited
21 or maintained significant contact with the child; and

22 (iii) the parent has demonstrated an
23 inability to provide the child with a safe environment;

24 (O) failed to comply with the provisions of a
25 court order that specifically established the actions necessary for
26 the parent to obtain the return of the child who has been in the
27 permanent or temporary managing conservatorship of the Department

1 of Family and Protective Services for not less than nine months as a
2 result of the child's removal from the parent under Chapter 262 for
3 the abuse or neglect of the child;

4 (P) used a controlled substance, as defined by
5 Chapter 481, Health and Safety Code, in a manner that endangered the
6 health or safety of the child, and:

7 (i) failed to complete a court-ordered
8 substance abuse treatment program; or

9 (ii) after completion of a court-ordered
10 substance abuse treatment program, continued to abuse a controlled
11 substance;

12 (Q) knowingly engaged in criminal conduct that
13 has resulted in the parent's:

14 (i) conviction of an offense; and

15 (ii) confinement or imprisonment and
16 inability to care for the child for not less than two years from the
17 date of filing the petition;

18 (R) been the cause of the child being born
19 addicted to alcohol or a controlled substance, other than a
20 controlled substance legally obtained by prescription;

21 (S) voluntarily delivered the child to a
22 designated emergency infant care provider under Section 262.302
23 without expressing an intent to return for the child; ~~[or]~~

24 (T) been convicted of:

25 (i) the murder of the other parent of the
26 child under Section 19.02 or 19.03, Penal Code, or under a law of
27 another state, federal law, the law of a foreign country, or the

1 Uniform Code of Military Justice that contains elements that are
2 substantially similar to the elements of an offense under Section
3 19.02 or 19.03, Penal Code;

4 (ii) criminal attempt under Section 15.01,
5 Penal Code, or under a law of another state, federal law, the law of
6 a foreign country, or the Uniform Code of Military Justice that
7 contains elements that are substantially similar to the elements of
8 an offense under Section 15.01, Penal Code, to commit the offense
9 described by Subparagraph (i); ~~or~~

10 (iii) criminal solicitation under Section
11 15.03, Penal Code, or under a law of another state, federal law, the
12 law of a foreign country, or the Uniform Code of Military Justice
13 that contains elements that are substantially similar to the
14 elements of an offense under Section 15.03, Penal Code, of the
15 offense described by Subparagraph (i); or

16 (iv) the sexual assault of the other parent
17 of the child under Section 22.011 or 22.021, Penal Code, or under a
18 law of another state, federal law, or the Uniform Code of Military
19 Justice that contains elements that are substantially similar to
20 the elements of an offense under Section 22.011 or 22.021, Penal
21 Code; or

22 (U) been placed on community supervision,
23 including deferred adjudication community supervision, or another
24 functionally equivalent form of community supervision or
25 probation, for being criminally responsible for the sexual assault
26 of the other parent of the child under Section 22.011 or 22.021,
27 Penal Code, or under a law of another state, federal law, or the

1 Uniform Code of Military Justice that contains elements that are
2 substantially similar to the elements of an offense under Section
3 22.011 or 22.021, Penal Code; and

4 (2) that termination is in the best interest of the
5 child.

6 SECTION 2. The change in law made by this Act applies only
7 to a suit affecting the parent-child relationship filed on or after
8 the effective date of this Act. A suit affecting the parent-child
9 relationship filed before the effective date of this Act is
10 governed by the law in effect on the date the suit was filed, and the
11 former law is continued in effect for that purpose.

12 SECTION 3. This Act takes effect September 1, 2017.