

By: Nelson, Zaffirini

S.B. No. 77

A BILL TO BE ENTITLED

AN ACT

relating to involuntary termination of parental rights based on sexual assault of the child's other parent and the child support obligations of the parent whose rights were terminated.

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

SECTION 1. Section 154.001(a-1), Family Code, is amended to read as follows:

(a-1) The court may order each person who is financially able and whose parental rights have been terminated with respect to ~~either~~ a child in substitute care for whom the department has been appointed managing conservator, a child for a reason described by Section 161.001(b)(1)(T)(iv) or (b)(1)(U), or a child who was conceived as a direct result of conduct that constitutes an offense under Section 21.02, 22.011, 22.021, or 25.02, Penal Code, to support the child in the manner specified by the order:

(1) until the earliest of:

(A) the child's adoption;

(B) the child's 18th birthday or graduation from high school, whichever occurs later;

(C) removal of the child's disabilities of minority by court order, marriage, or other operation of law; or

(D) the child's death; or

(2) if the child is disabled as defined in this chapter, for an indefinite period.

1 SECTION 2. Section 161.001(b), Family Code, is amended to
2 read as follows:

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

5 (1) that the parent has:

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

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

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

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

19 (E) engaged in conduct or knowingly placed the
20 child with persons who engaged in conduct which endangers the
21 physical or emotional well-being of the child;

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

25 (G) abandoned the child without identifying the
26 child or furnishing means of identification, and the child's
27 identity cannot be ascertained by the exercise of reasonable

1 diligence;

2 (H) voluntarily, and with knowledge of the
3 pregnancy, abandoned the mother of the child beginning at a time
4 during her pregnancy with the child and continuing through the
5 birth, failed to provide adequate support or medical care for the
6 mother during the period of abandonment before the birth of the
7 child, and remained apart from the child or failed to support the
8 child since the birth;

9 (I) contumaciously refused to submit to a
10 reasonable and lawful order of a court under Subchapter D, Chapter
11 [261](#);

12 (J) been the major cause of:

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

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

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

21 (L) been convicted or has been placed on
22 community supervision, including deferred adjudication community
23 supervision, for being criminally responsible for the death or
24 serious injury of a child under the following sections of the Penal
25 Code, or under a law of another jurisdiction that contains elements
26 that are substantially similar to the elements of an offense under
27 one of the following Penal Code sections, or adjudicated under

1 Title 3 for conduct that caused the death or serious injury of a
2 child and that would constitute a violation of one of the following
3 Penal Code sections:

- 4 (i) Section 19.02 (murder);
- 5 (ii) Section 19.03 (capital murder);
- 6 (iii) Section 19.04 (manslaughter);
- 7 (iv) Section 21.11 (indecent with a
8 child);
- 9 (v) Section 22.01 (assault);
- 10 (vi) Section 22.011 (sexual assault);
- 11 (vii) Section 22.02 (aggravated assault);
- 12 (viii) Section 22.021 (aggravated sexual
13 assault);
- 14 (ix) Section 22.04 (injury to a child,
15 elderly individual, or disabled individual);
- 16 (x) Section 22.041 (abandoning or
17 endangering child);
- 18 (xi) Section 25.02 (prohibited sexual
19 conduct);
- 20 (xii) Section 43.25 (sexual performance by
21 a child);
- 22 (xiii) Section 43.26 (possession or
23 promotion of child pornography);
- 24 (xiv) Section 21.02 (continuous sexual
25 abuse of young child or children);
- 26 (xv) Section 20A.02(a)(7) or (8)
27 (trafficking of persons); and

1 (xvi) Section 43.05(a)(2) (compelling
2 prostitution);

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

7 (N) constructively abandoned the child who has
8 been in the permanent or temporary managing conservatorship of the
9 Department of Family and Protective Services for not less than six
10 months, and:

11 (i) the department has made reasonable
12 efforts to return the child to the parent;

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

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

17 (O) failed to comply with the provisions of a
18 court order that specifically established the actions necessary for
19 the parent to obtain the return of the child who has been in the
20 permanent or temporary managing conservatorship of the Department
21 of Family and Protective Services for not less than nine months as a
22 result of the child's removal from the parent under Chapter 262 for
23 the abuse or neglect of the child;

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

27 (i) failed to complete a court-ordered

1 substance abuse treatment program; or

2 (ii) after completion of a court-ordered
3 substance abuse treatment program, continued to abuse a controlled
4 substance;

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

7 (i) conviction of an offense; and

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

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

14 (S) voluntarily delivered the child to a
15 designated emergency infant care provider under Section 262.302
16 without expressing an intent to return for the child; ~~or~~

17 (T) been convicted of:

18 (i) the murder of the other parent of the
19 child under Section 19.02 or 19.03, Penal Code, or under a law of
20 another state, federal law, the law of a foreign country, or the
21 Uniform Code of Military Justice that contains elements that are
22 substantially similar to the elements of an offense under Section
23 19.02 or 19.03, Penal Code;

24 (ii) criminal attempt under Section 15.01,
25 Penal Code, or under a law of another state, federal law, the law of
26 a foreign country, or the Uniform Code of Military Justice that
27 contains elements that are substantially similar to the elements of

1 an offense under Section 15.01, Penal Code, to commit the offense
2 described by Subparagraph (i); [~~or~~]

3 (iii) criminal solicitation under Section
4 15.03, Penal Code, or under a law of another state, federal law, the
5 law of a foreign country, or the Uniform Code of Military Justice
6 that contains elements that are substantially similar to the
7 elements of an offense under Section 15.03, Penal Code, of the
8 offense described by Subparagraph (i); or

9 (iv) the sexual assault of the other parent
10 of the child under Section 22.011 or 22.021, Penal Code, or under a
11 law of another state, federal law, or the Uniform Code of Military
12 Justice that contains elements that are substantially similar to
13 the elements of an offense under Section 22.011 or 22.021, Penal
14 Code; or

15 (U) been placed on community supervision,
16 including deferred adjudication community supervision, or another
17 functionally equivalent form of community supervision or
18 probation, for being criminally responsible for the sexual assault
19 of the other parent of the child under Section 22.011 or 22.021,
20 Penal Code, or under a law of another state, federal law, or the
21 Uniform Code of Military Justice that contains elements that are
22 substantially similar to the elements of an offense under Section
23 22.011 or 22.021, Penal Code; and

24 (2) that termination is in the best interest of the
25 child.

26 SECTION 3. The change in law made by this Act applies only
27 to a suit affecting the parent-child relationship filed on or after

1 the effective date of this Act. A suit affecting the parent-child
2 relationship filed before the effective date of this Act is
3 governed by the law in effect on the date the suit was filed, and the
4 former law is continued in effect for that purpose.

5 SECTION 4. This Act takes effect September 1, 2017.