

By: Hughes

S.B. No. 1415

A BILL TO BE ENTITLED

AN ACT

Relating to certain procedures in suits affecting the parent-child relationship.

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

SECTION 1. Section 105.002, Family Code, is amended by adding Subsection (d) to read as follows:

(d) In a suit affecting the parent-child relationship in which the Department of Family and Protective Services seeks termination of the parent-child relationship, the court may not issue broad-form questions to the jury on the issue of whether to terminate the parent-child relationship. The court shall instruct the jury to find from the evidence whether the grounds for termination of the parent-child relationship alleged in the petition are true. If the petition alleges more than one ground for termination, the jury shall indicate in the verdict which grounds are sustained by the evidence and which are not sustained. To the extent that this subsection conflicts with the Texas Rules of Civil Procedure, this subsection controls. Notwithstanding Section 22.004, Government Code, the supreme court may not amend or adopt rules in conflict with this subsection.

SECTION 2. Section 154.001, Family Code, is amended by amending Subsection (b) and adding Subsection (b-1) to read as follows:

(b) In a suit filed by the Department of Family and

1 Protective Services to be named managing conservator of a child,
2 the court may not order a parent of the child to make periodic
3 payments for the support of the child while the suit is pending,
4 except as provided by this section. ~~[The court may order either or~~
5 ~~both parents to make periodic payments for the support of a child in~~
6 ~~a proceeding in which the Department of Protective and Regulatory~~
7 ~~Services is named temporary managing conservator.]~~

8 (b-1) In a proceeding in which a court renders a final order
9 appointing the Department of Family and Protective ~~[and Regulatory]~~
10 Services as ~~[is named permanent]~~ managing conservator of a child
11 whose parents' rights have not been terminated, the court shall
12 order each parent that is financially able to make periodic
13 payments for the support of the child.

14 SECTION 3. Subchapter B, Chapter 161, Family Code, is
15 amended by adding Section 161.1011 to read as follows:

16 Sec. 161.1011. FILING REQUIREMENT FOR PETITION RELATING TO
17 MORE THAN ONE CHILD. (a) Before filing a petition for the
18 termination of the parent-child relationship relating to more than
19 one child, the Department of Family and Protective Services must
20 determine whether any court has continuing, exclusive jurisdiction
21 of a child named in the petition. If a court is determined to have
22 continuing, exclusive jurisdiction of a child named in the
23 petition, the department shall file the petition in that court.

24 (b) If more than one court has continuing, exclusive
25 jurisdiction of a child named in the petition, the department shall
26 file the petition in the court that has most recently exercised
27 continuing, exclusive jurisdiction of a child named in the

1 petition.

2 SECTION 4. Section 161.206, Family Code, is amended by
3 adding Subsection (a-1) to read as follows:

4 (a-1) In a suit filed by the Department of Family and
5 Protective Services seeking termination of the parent-child
6 relationship for both parents of the child, the court may order
7 termination of the parent-child relationship for both parents only
8 if the court finds by clear and convincing evidence grounds for the
9 termination of the parent-child relationship for each parent. An
10 order rendered under this subsection must state the grounds for
11 terminating the parent-child relationship for each parent.

12 SECTION 5. Section 262.201, Family Code, is amended by
13 adding Subsection (a-5) to read as follows:

14 (a-5) If a parent who is not indigent appears in opposition
15 to the suit, the court may, for good cause shown, postpone the full
16 adversary hearing for not more than seven days from the date of the
17 parent's appearance to allow the parent to hire an attorney or to
18 provide the parent's attorney time to respond to the petition and
19 prepare for the hearing. A postponement under this subsection is
20 subject to the limits and requirements prescribed by Subsection
21 (a-3).

22 SECTION 6. Subchapter C, Chapter 262, Family Code, is
23 amended by adding Section 262.206 to read as follows:

24 Sec. 262.206. EX PARTE HEARINGS PROHIBITED. Unless
25 otherwise authorized by law, a hearing held by a court in a suit
26 under this chapter may not be ex parte.

27 SECTION 7. Section 263.401, Family Code, is amended to read

1 as follows:

2 Sec. 263.401. DISMISSAL AFTER ONE YEAR; NEW TRIALS;
3 EXTENSION. (a) Unless the court has commenced the trial on the
4 merits or granted an extension under Subsection (b) or (b-1), on the
5 first Monday after the first anniversary of the date the court
6 rendered a temporary order appointing the department as temporary
7 managing conservator, the court's jurisdiction over [~~court shall~~
8 ~~dismiss~~] the suit affecting the parent-child relationship filed by
9 the department that requests termination of the parent-child
10 relationship or requests that the department be named conservator
11 of the child is terminated and the suit is automatically dismissed
12 without a court order.

13 (b) Unless the court has commenced the trial on the merits,
14 the court may not retain the suit on the court's docket after the
15 time described by Subsection (a) unless the court finds that
16 extraordinary circumstances necessitate the child remaining in the
17 temporary managing conservatorship of the department and that
18 continuing the appointment of the department as temporary managing
19 conservator is in the best interest of the child. If the court makes
20 those findings, the court may retain the suit on the court's docket
21 for a period not to exceed 180 days after the time described by
22 Subsection (a). If the court retains the suit on the court's docket,
23 the court shall render an order in which the court:

24 (1) schedules the new date on which the suit will be
25 automatically dismissed if the trial on the merits has not
26 commenced, which date must be not later than the 180th day after the
27 time described by Subsection (a);

1 (2) makes further temporary orders for the safety and
2 welfare of the child as necessary to avoid further delay in
3 resolving the suit; and

4 (3) sets the trial on the merits on a date not later
5 than the date specified under Subdivision (1).

6 (b-1) If, after commencement of the initial trial on the
7 merits within the time required by Subsection (a) or (b), the court
8 grants a motion for a new trial or mistrial, or the case is remanded
9 to the court by an appellate court following an appeal of the
10 court's final order, the court shall retain the suit on the court's
11 docket and render an order in which the court:

12 (1) schedules a new date on which the suit will be
13 automatically dismissed if the new trial has not commenced, which
14 must be a date not later than the 180th day after the date on which:

15 (A) the motion for a new trial or mistrial is
16 granted; or

17 (B) the appellate court remanded the case;

18 (2) makes further temporary orders for the safety and
19 welfare of the child as necessary to avoid further delay in
20 resolving the suit; and

21 (3) sets the new trial on the merits for a date not
22 later than the date specified under Subdivision (1).

23 (c) If the court grants an extension under Subsection (b) or
24 (b-1) but does not commence the trial on the merits before the
25 dismissal date, the court's jurisdiction over ~~[court shall dismiss]~~
26 the suit is terminated and the suit is automatically dismissed
27 without a court order. The court may not grant an additional

1 extension that extends the suit beyond the required date for
2 dismissal under Subsection (b) or (b-1), as applicable.

3 SECTION 8. The changes in law made by this Act apply only to
4 a suit affecting the parent-child relationship filed on or after
5 the effective date of this Act. A suit filed before that date is
6 governed by the law in effect on the date the suit was filed, and the
7 former law is continued in effect for that purpose.

8 SECTION 9. This Act takes effect September 1, 2017.