

BILL ANALYSIS

C.S.H.B. 575
By: Dutton
Juvenile Justice & Family Issues
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Grandparents can play an important role in a child's life, and there are concerns about barriers faced by grandparents in bringing suit for possession of or access to a grandchild, even when such possession or access would be in the best interest of the child. It has been suggested that there is confusion regarding whether expert testimony is required in such suits and that the conditions that must be met for a court to order possession or access by a grandparent are too restrictive. C.S.H.B. 575 seeks to eliminate that confusion and provide grandparents with additional rights when access to or possession of their grandchildren is at issue.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 575 amends the Family Code to establish that the affidavit required to be executed and attached by a biological or adoptive grandparent filing a suit requesting possession of or access to a grandchild is not required to contain expert opinion. The bill removes from the conditions that must be met for a court to order reasonable possession of or access to a grandchild by a grandparent the condition that the grandparent requesting possession of or access to the child is a parent of a parent of the child and that parent of the child has been incarcerated in jail or prison during the three-month period preceding the filing of the petition, has been found by a court to be incompetent, is dead, or does not have actual or court-ordered possession of or access to the child. The bill establishes that a grandparent requesting possession of or access to a grandchild is not required to offer expert testimony to meet the burden of proof that denial of possession of or access to the child would significantly impair the child's physical health or emotional well-being. The bill requires the court, in a suit for possession of or access to a grandchild, to appoint a guardian ad litem for the grandchild at the request of a grandparent who is party to the suit. The bill requires such a guardian ad litem to submit to the court a report regarding the guardian ad litem's recommendations relating to the grandparent's possession of or access to the grandchild and the bases for the guardian ad litem's recommendations. The bill applies to a suit affecting the parent-child relationship that is pending in a trial court on the bill's effective date or filed on or after that date.

EFFECTIVE DATE

September 1, 2019.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 575 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute includes a requirement for a court to appoint a guardian ad litem in a suit for possession of or access to a grandchild. The substitute includes a requirement for such a guardian ad litem to submit a report to the court regarding certain recommendations.