

By: Dutton

H.B. No. 575

A BILL TO BE ENTITLED

AN ACT

relating to a suit for possession of or access to a child by a grandparent.

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

SECTION 1. Section 153.432, Family Code, is amended by adding Subsection (d) to read as follows:

(d) An affidavit submitted under Subsection (c) is not required to contain expert opinion.

SECTION 2. Section 153.433, Family Code, is amended to read as follows:

Sec. 153.433. POSSESSION OF OR ACCESS TO GRANDCHILD. (a) The court may order reasonable possession of or access to a grandchild by a grandparent if:

(1) at the time the relief is requested, at least one biological or adoptive parent of the child has not had that parent's parental rights terminated; and

(2) the grandparent requesting possession of or access to the child overcomes the presumption that a parent acts in the best interest of the parent's child by proving by a preponderance of the evidence that denial of possession of or access to the child would significantly impair the child's physical health or emotional well-being[~~, and~~

~~[(3) the grandparent requesting possession of or access to the child is a parent of a parent of the child and that~~

1 ~~parent of the child:~~

2                   ~~[(A) has been incarcerated in jail or prison~~  
3 ~~during the three-month period preceding the filing of the petition,~~

4                   ~~[(B) has been found by a court to be incompetent,~~

5                   ~~[(C) is dead, or~~

6                   ~~[(D) does not have actual or court-ordered~~  
7 ~~possession of or access to the child].~~

8           (a-1) To meet the burden of proof under Subsection (a)(2), a  
9 grandparent requesting possession of or access to a grandchild is  
10 not required to offer expert testimony.

11           (b) An order granting possession of or access to a child by a  
12 grandparent that is rendered over a parent's objections must state,  
13 with specificity, that:

14                   (1) at the time the relief was requested, at least one  
15 biological or adoptive parent of the child had not had that parent's  
16 parental rights terminated; and

17                   (2) the grandparent requesting possession of or access  
18 to the child has overcome the presumption that a parent acts in the  
19 best interest of the parent's child by proving by a preponderance of  
20 the evidence that the denial of possession of or access to the child  
21 would significantly impair the child's physical health or emotional  
22 well-being[~~, and~~

23                   ~~[(3) the grandparent requesting possession of or~~  
24 ~~access to the child is a parent of a parent of the child and that~~  
25 ~~parent of the child.~~

26                   ~~[(A) has been incarcerated in jail or prison~~  
27 ~~during the three-month period preceding the filing of the petition,~~

1                   ~~[(B) has been found by a court to be incompetent;~~  
2                   ~~[(C) is dead; or~~  
3                   ~~[(D) does not have actual or court-ordered~~  
4 ~~possession of or access to the child].~~

5           SECTION 3. The change in law made by this Act applies to a  
6 suit affecting the parent-child relationship that is pending in a  
7 trial court on the effective date of this Act or filed on or after  
8 that date.

9           SECTION 4. This Act takes effect September 1, 2019.