By:  Birdwell S.B. No. 1178

(In the Senate - Filed March 8, 2021; March 18, 2021, read first time and referred to Committee on State Affairs; April 21, 2021, reported adversely, with favorable Committee Substitute by the following vote: Yeas 6, Nays 2; April 21, 2021, sent to printer.)

COMMITTEE VOTE

               Yea Nay Absent  PNV

Hughes          X

Birdwell        X

Campbell        X

Hall            X

Lucio                     X

Nelson          X

Powell              X

Schwertner      X

Zaffirini           X

COMMITTEE SUBSTITUTE FOR S.B. No. 1178 By:  Birdwell

A BILL TO BE ENTITLED

AN ACT

relating to the rights and duties of parents and the protection of parental rights in suits affecting the parent-child relationship.

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

SECTION 1.  Section 151.001(a), Family Code, is amended to read as follows:

(a)  In addition to the rights and duties described by Section 151.004, a [~~A~~] parent of a child has the following rights and duties:

(1)  the right to have physical possession[~~, to direct the moral and religious training,~~] and to designate the residence of the child;

(2)  the duty of care, control, protection, and reasonable discipline of the child;

(3)  the duty to support the child, including providing the child with clothing, food, shelter, medical and dental care, and education;

(4)  the duty, except when a guardian of the child's estate has been appointed, to manage the estate of the child, including the right as an agent of the child to act in relation to the child's estate if the child's action is required by a state, the United States, or a foreign government;

(5)  except as provided by Section 264.0111, the right to the services and earnings of the child;

(6)  the right to consent to the child's marriage, enlistment in the armed forces of the United States, medical and dental care, and psychiatric, psychological, and surgical treatment;

(7)  the right to represent the child in legal action and to make other decisions of substantial legal significance concerning the child;

(8)  the right to receive and give receipt for payments for the support of the child and to hold or disburse funds for the benefit of the child;

(9)  the right to inherit from and through the child; and

(10)  [~~the right to make decisions concerning the child's education; and~~

[~~(11)~~]  any other right or duty existing between a parent and child by virtue of law.

SECTION 2.  Chapter 151, Family Code, is amended by adding Section 151.004 to read as follows:

Sec. 151.004.  PRESUMPTION OF PARENTAL FITNESS; FUNDAMENTAL RIGHT OF PARENTS TO RAISE CHILDREN. (a) In a suit, there is a presumption that a parent is a fit parent who acts in the best interest of the parent's child.

(b)  The fundamental right of a parent to raise the parent's child includes the right to direct and make decisions for the child's care, custody, control, education, upbringing, moral and religious training, and medical care.

(c)  In a suit between a parent and a nonparent, a court may not grant any relief that conflicts with a parent's decisions or proposed decisions for the child unless the court finds that:

(1)  the requested relief is necessary to prevent a significant impairment of the child's physical health or emotional well-being; or

(2)  in the most recent final order rendered regarding the child in a previous suit to which the parent was a party, the parent:

(A)  either:

(i)  was given an opportunity to be heard and present evidence; or

(ii)  entered into a written agreement that did not name the parent as the sole managing conservator or a joint managing conservator of the child;

(B)  was not appointed as the sole managing conservator or a joint managing conservator of the child; and

(C)  had adequate notice of the final hearing as required by law.

(d)  This section may not be construed to limit the rights of the state to investigate or act on a report of child abuse or neglect allegedly committed by a person responsible for a child's care, custody, or welfare, beyond the limitations required by the United States Constitution and the Texas Constitution.

(e)  This section does not apply to an order to enforce child support.

SECTION 3.  This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2021.

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