

By: Dutton

H.B. No. 2634

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to standing in a suit affecting the parent-child  
3 relationship.

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

5 SECTION 1. Section 102.003, Family Code, is amended to read  
6 as follows:

7 Sec. 102.003. GENERAL STANDING TO FILE SUIT. (a) An  
8 original suit may be filed at any time by:

- 9 (1) a parent of the child;
- 10 (2) the child through a representative authorized by  
11 the court;
- 12 (3) a custodian or person having the right of  
13 visitation with or access to the child appointed by an order of a  
14 court of another state or country;
- 15 (4) a guardian of the person or of the estate of the  
16 child;
- 17 (5) a governmental entity;
- 18 (6) the Department of Family and Protective Services;
- 19 (7) a licensed child placing agency;
- 20 (8) a man alleging himself to be the father of a child  
21 filing in accordance with Chapter 160, subject to the limitations  
22 of that chapter, but not otherwise;
- 23 (9) a person, other than a foster parent, relative, or  
24 designated caregiver of a child placed by the Department of Family

1 and Protective Services, who has had actual care, control, and  
2 possession of the child for at least six months ending not more than  
3 90 days preceding the date of the filing of the petition;

4 (10) a person designated as the managing conservator  
5 in a revoked or unrevoked affidavit of relinquishment under Chapter  
6 161 or to whom consent to adoption has been given in writing under  
7 Chapter 162;

8 (11) ~~[a person with whom the child and the child's~~  
9 ~~guardian, managing conservator, or parent have resided for at least~~  
10 ~~six months ending not more than 90 days preceding the date of the~~  
11 ~~filing of the petition if the child's guardian, managing~~  
12 ~~conservator, or parent is deceased at the time of the filing of the~~  
13 ~~petition;~~

14 [~~12~~] a person who is the foster parent, relative, or  
15 designated caregiver of a child placed by the Department of Family  
16 and Protective Services in the person's home for at least 12 months  
17 ending not more than 90 days preceding the date of the filing of the  
18 petition, unless:

19 (A) the child has been returned to the parent  
20 under Section 263.403; or

21 (B) the child has been placed with a parent and  
22 the suit by the Department of Family and Protective Services has  
23 been dismissed under Section 263.401;

24 (12) [~~13~~] a person who is a relative of the child  
25 within the fourth [~~third~~] degree by consanguinity, as determined by  
26 Chapter 573, Government Code, if the child's parents are deceased  
27 at the time of the filing of the petition;

1           (13) [~~(14)~~] a person who has been named as a  
2 prospective adoptive parent of a child by a pregnant woman or the  
3 parent of the child, in a verified written statement to confer  
4 standing executed under Section 102.0035, regardless of whether the  
5 child has been born; or

6           (14) [~~(15)~~] subject to Subsection (d), a person who is  
7 an intended parent of a child or unborn child under a gestational  
8 agreement that complies with the requirements of Section 160.754.

9           (b) In computing the time necessary for standing under  
10 Subsections (a)(9) and [~~7~~] (11), [~~and (12)~~], the court may not  
11 require that the time be continuous and uninterrupted but shall  
12 consider the child's principal residence during the relevant time  
13 preceding the date of commencement of the suit.

14           (c) Notwithstanding the time requirements of Subsection  
15 (a)(11) [~~(a)(12)~~], a person who is the foster parent of a child may  
16 file a suit to adopt a child for whom the person is providing foster  
17 care at any time after the person has been approved to adopt the  
18 child. The standing to file suit under this subsection applies only  
19 to the adoption of a child who is eligible to be adopted.

20           (d) A person described by Subsection (a)(14) [~~(a)(15)~~] has  
21 standing to file an original suit only if:

22           (1) the person is filing an original suit jointly with  
23 the other intended parent under the gestational agreement; or

24           (2) the person is filing an original suit against the  
25 other intended parent under the gestational agreement.

26           SECTION 2. Sections 102.0035(a) and (e), Family Code, are  
27 amended to read as follows:

1 (a) A pregnant woman or a parent of a child may execute a  
2 statement to confer standing to a prospective adoptive parent as  
3 provided by this section to assert standing under Section  
4 102.003(a)(13) [~~102.003(a)(14)~~]. A statement to confer standing  
5 under this section may not be executed in a suit brought by a  
6 governmental entity under Chapter 262 or 263.

7 (e) A statement to confer standing is not required in a suit  
8 brought by a person who has standing to file a suit affecting the  
9 parent-child relationship under Sections 102.003(a)(1)-(12) and  
10 (14) [~~102.003(a)(1)-(13)~~] or any other law under which the person  
11 has standing to file a suit.

12 SECTION 3. The heading to Section 102.004, Family Code, is  
13 amended to read as follows:

14 Sec. 102.004. STANDING FOR CERTAIN RELATIVES AND  
15 [~~GRANDPARENT OR~~] OTHER PERSONS [~~PERSON~~].

16 SECTION 4. Section 102.004, Family Code, is amended by  
17 amending Subsections (a), (b), and (b-1) and adding Subsections  
18 (b-2) and (b-3) to read as follows:

19 (a) In addition to the general standing to file suit  
20 provided by Section 102.003, a grandparent, or another relative of  
21 the child related within the fourth [~~third~~] degree by  
22 consanguinity, may file an original suit requesting managing  
23 conservatorship if there is satisfactory proof to the court that:

24 (1) the order requested is necessary because the  
25 child's present circumstances would significantly impair the  
26 child's physical health or emotional development; or

27 (2) both parents, the surviving parent, or the

1 managing conservator or custodian either filed the petition or  
2 consented to the suit.

3 (b) An original suit requesting possessory conservatorship  
4 may not be filed by a grandparent or other relative or person.  
5 However, [~~the court may grant~~] a grandparent or other relative or  
6 person may intervene in a pending suit under Subsection (b-1) or  
7 (b-2), as applicable.

8 (b-1) A grandparent or other relative of the child within  
9 the fourth degree of consanguinity may intervene in a pending suit  
10 filed by a person authorized to do so under this chapter if there is  
11 satisfactory proof to the court that appointment of a parent as a  
12 sole managing conservator or both parents as joint managing  
13 conservators would significantly impair the child's physical  
14 health or emotional development.

15 (b-2) The court may grant a person, other than a grandparent  
16 or other relative of the child within the fourth degree of  
17 consanguinity, subject to the requirements of Subsection (b-3)  
18 [~~(b-1)~~] if applicable, deemed by the court to have had substantial  
19 past contact with the child leave to intervene in a pending suit  
20 filed by a person authorized to do so under this chapter if there is  
21 satisfactory proof to the court that appointment of a parent as a  
22 sole managing conservator or both parents as joint managing  
23 conservators would significantly impair the child's physical  
24 health or emotional development. The court may not grant the  
25 Department of Family and Protective Services leave to intervene  
26 under this subsection unless each parent consents to the  
27 intervention.

1            (b-3) [~~(b-1)~~] A foster parent may only be granted leave to  
2 intervene under Subsection (b-2) [~~(b)~~] if the foster parent would  
3 have standing to file an original suit as provided by Section  
4 102.003(a)(11) [~~102.003(a)(12)~~].

5            SECTION 5. Section 102.005, Family Code, is amended to read  
6 as follows:

7            Sec. 102.005. STANDING TO REQUEST TERMINATION AND ADOPTION.  
8 An original suit requesting only an adoption or for termination of  
9 the parent-child relationship joined with a petition for adoption  
10 may be filed by:

11            (1) a stepparent of the child;

12            (2) an adult who, as the result of a placement for  
13 adoption, has had actual possession and control of the child at any  
14 time during the 30-day period preceding the filing of the petition;  
15 or

16            (3) [~~an adult who has had actual possession and~~  
17 ~~control of the child for not less than two months during the~~  
18 ~~three-month period preceding the filing of the petition,~~

19            [~~(4)~~] an adult who has adopted, or is the foster parent  
20 of and has petitioned to adopt, a sibling of the child[, ~~or~~

21            [~~(5) another adult whom the court determines to have had~~  
22 ~~substantial past contact with the child sufficient to warrant~~  
23 ~~standing to do so].~~

24            SECTION 6. Section 102.006(c), Family Code, is amended to  
25 read as follows:

26            (c) The limitations on filing suit imposed by this section  
27 do not apply to a relative within the third degree of consanguinity

1 of a former parent whose parent-child relationship with the child  
2 has been terminated by court order [~~an adult sibling of the child, a~~  
3 ~~grandparent of the child, an aunt who is a sister of a parent of the~~  
4 ~~child, or an uncle who is a brother of a parent of the child~~] if the  
5 relative [~~adult sibling, grandparent, aunt, or uncle~~] files an  
6 original suit or a suit for modification requesting managing  
7 conservatorship of the child not later than the 90th day after the  
8 date the parent-child relationship between the child and the parent  
9 is terminated in a suit filed by the Department of Family and  
10 Protective Services requesting the termination of the parent-child  
11 relationship.

12 SECTION 7. The changes in law made by this Act apply only to  
13 a suit affecting the parent-child relationship filed on or after  
14 the effective date of this Act. A suit affecting the parent-child  
15 relationship filed before that date is governed by the law in effect  
16 on the date the suit was filed, and that law is continued in effect  
17 for that purpose.

18 SECTION 8. This Act takes effect September 1, 2021.