

## **BILL ANALYSIS**

C.S.H.B. 891  
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Juvenile Justice & Family Issues  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

There is a need to clarify that a rebuttal expert can testify and challenge the qualifications and methodology of a child custody evaluation expert without conducting their own child custody evaluation. C.S.H.B. 891 clarifies the grounds on which a testifying expert offered to critique the foundation of the custody expert's opinion is allowed to testify concerning another expert's opinion. This is standard procedure in all areas of law in Texas. The challenge to the foundation of the custody expert's opinion is based upon critical review of their qualifications and reliance on research and methodology, and the reviewing expert must be qualified as an expert in child custody evaluations.

### **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. 891 amends the Family Code to establish that the prohibition against offering an expert opinion or recommendation relating to the conservatorship of or possession of or access to a child at issue in a suit without having conducted a child custody evaluation relating to the child does not prohibit a person from offering an expert opinion regarding the qualifications of, reliability of the methodology used by, or relevance of the information obtained by a person who has conducted a child custody evaluation relating to the child under applicable state law as long as the person's testimony does not violate that prohibition. The bill applies only to a suit affecting the parent-child relationship filed on or after the bill's effective date.

### **EFFECTIVE DATE**

September 1, 2023.

### **COMPARISON OF INTRODUCED AND SUBSTITUTE**

While C.S.H.B. 891 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

Whereas the introduced established that a party is not prohibited from using expert testimony to challenge the qualifications of or methodology used by a person who has conducted a custody

evaluation relating to the child under applicable state law, the substitute instead establishes that a person is not prohibited from offering an expert opinion regarding the qualifications of, reliability of the methodology used by, or relevance of the information obtained by a person who has conducted such an evaluation. The substitute also includes a specification absent from the introduced that this offering of an expert opinion is not prohibited as long as the person's testimony does not violate the prohibition against offering such testimony without having conducted such an evaluation.