

## **BILL ANALYSIS**

C.S.S.B. 718  
By: Paxton  
Juvenile Justice & Family Issues  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

In Texas family court, if a parent is determined to have been falsely accused of neglect, judges are not required to rule that the falsely accused parent gets the custody time back with their child that they missed during the investigation. C.S.S.B. 718 seeks to remedy this situation and prevent injustice against parents who face unfounded allegations during a child custody battle by requiring a court to order additional periods of possession or access for a parent who misses out on custody time as the result of an investigation by the Department of Family and Protective Services that did not result in a finding of abuse or neglect.

### **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.S.B. 718 amends the Family Code to require the court in a suit affecting the parent-child relationship to order additional periods of possession of or access to a child to compensate for a denial of court-ordered possession or access that resulted from an investigation by the Department of Family and Protective Services (DFPS) that did not result in a finding of abuse or neglect unless a party shows good cause as to why the order should not be rendered. The bill establishes that this requirement does not create a cause of action against DFPS or waive sovereign immunity to suit or liability. The enactment of the bill does not constitute a material and substantial change of circumstances sufficient to warrant modification of a court order or portion of a decree that provides for the possession of or access to a child rendered before the bill's effective date, and the bill applies only to a suit affecting the parent-child relationship pending before a trial court on or filed on or after the bill's effective date. A suit in which a final order is rendered before that date is governed by the law in effect on the date the order was rendered, and the former law is continued in effect for that purpose.

### **EFFECTIVE DATE**

September 1, 2023.

## **COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE**

While C.S.S.B. 718 may differ from the engrossed in minor or nonsubstantive ways, the following summarizes the substantial differences between the engrossed and committee substitute versions of the bill.

Both the engrossed and the substitute require the court in a suit affecting the parent-child relationship to order additional periods of possession of or access to a child to compensate for the denial of court ordered possession or access that resulted from a DFPS investigation that did not result in a finding of abuse or neglect, unless a party shows good cause why the order should not be rendered. However, the engrossed also made it mandatory for a court to order additional periods of possession or access in all other circumstances in which court-ordered possession or access is denied unless such good cause is shown, whereas the substitute maintains the court's discretion to make such an order in other circumstances.

The substitute includes a provision absent from the engrossed establishing that the bill's requirement for a court to order additional periods of possession or access in relation to a DFPS investigation does not create a cause of action against DFPS or waive sovereign immunity to suit or liability.