

BILL ANALYSIS

Senate Research Center
88R19066 MLH-D

C.S.S.B. 885
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State Affairs
3/22/2023
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The victim of a family violence offense can apply for a lifetime protective order against the other parent. Lifetime protective orders are orders effective for a period that exceeds two years. A court grants a lifetime protective order only if there was serious bodily injury, the person committed a felony family violence offense, or the person in question has a pattern of violent activity that has warranted protective orders in the past. Persons subject to these lifetime protective orders may have violent and unsafe tendencies, which could be detrimental to a child in their custody.

Currently, a lifetime protective order, however, is not sufficient cause to terminate the parental rights of the parent under the order if they have not yet been convicted of the family violence offense. It can take up to two or three years for a criminal court to issue a conviction, and during this time, a child could be in the custody of an unsafe and unfit parent.

S.B. 885 would establish that the court may consider the termination of a child-parent relationship if a parent receives a protective order for a period that exceeds two years due to a family violence offense. Judges would still maintain their discretion to determine that the termination is in the child's best interest. This change would allow the courts to consider the violent tendencies that led to the parent being placed under these protective orders, rather than waiting for the parent to be convicted of the offense.

(Original Author's/Sponsor's Statement of Intent)

C.S.S.B. 885 amends current law relating to the grounds for terminating and reinstating a person's parental rights and the adoption of certain children.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 161.001, Family Code, by adding Subsections (b-1) and (b-2), as follows:

(b-1) Authorizes the court, if a parent has had a protective order issued against the parent under Chapter 85 (Issuance of Protective Order) and the court issuing the protective order made a finding under Section 85.025(a-1)(1) (relating to authorizing the court to render a protective order if the court finds that the person committed an act constituting a felony offense involving family violence against the applicant or a member of the applicant's family or household) that the parent committed an act constituting an offense involving family violence, to order termination of the parent-child relationship if the court finds by clear and convincing evidence that:

- (1) the parent committed an act constituting an offense listed under Subsection (b)(1)(L) (relating to a parent who has been convicted or been placed on

community supervision for being criminally responsible for the death or serious injury of a child); and

(2) termination is in the best interest of the child.

(b-2) Authorizes the court, in determining whether to order termination under Subsection (b-1), to consider any evidence offered in the hearing under Subtitle B (Protective Orders), Title 4, that resulted in the court issuing the protective order.

SECTION 2. Amends Section 161.302 (b), Family Code, to create an exception under Section 161.305.

SECTION 3. Amends Subchapter D, Chapter 161, Family Code, by adding Section 161.305, as follows:

Sec. 161.305. CERTAIN PETITIONS FOR REINSTATEMENT. (a) Authorizes a former parent whose parental rights have been terminated under Section 161.001(b-1) to file a petition under Subchapter D (Reinstatement of Parental Rights After Involuntary Termination) to reinstate the former parent's parental rights.

(b) Requires the court to grant a petition under this section without a hearing and order the reinstatement of the former parent's parental rights if the petition demonstrates that the act upon which the decision to terminate the former parent's parental rights is based did not result in the former parent being criminally adjudicated in the manner required for termination under Section 161.001(b)(1)(L).

SECTION 4. Amends Section 162.001, Family Code, by adding Subsection (d), as follows:

(d) Prohibits the child of a parent whose parental rights have been terminated under Section 161.001(b-1) from being adopted unless the parent has subsequently been criminally adjudicated in the manner required by Section 161.001(b)(1)(L) for the act upon which the decision to terminate the parent's parental rights is based.

SECTION 5. Makes application of this Act prospective.

SECTION 6. Effective date: September 1, 2023.