88R12582 MLH-F

By:  Campos H.B. No. 4855

A BILL TO BE ENTITLED

AN ACT

relating to certain procedures in suits affecting the parent-child relationship filed by the Department of Family and Protective Services.

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

SECTION 1.  Section 161.101, Family Code, is amended by adding Subsections (c), (d), and (e) to read as follows:

(c)  The Department of Family and Protective Services may not file a petition for the termination of the parent-child relationship unless:

(1)  the child has been in the temporary managing conservatorship of the department for at least 15 of the previous 22 months;

(2)  the child is under two years of age and the court has previously determined that the child was abandoned; or

(3)  the department petition alleges aggravated circumstances under Section 262.2015 against the parent.

(d)  Notwithstanding Subsection (c), the Department of Family and Protective Services may not file a petition for the termination of the parent-child relationship if:

(1)  the child is being cared for by a relative;

(2)  the department finds a compelling reason why termination of the parent-child relationship is not in the child's best interests and documents that reason in the family service plan;

(3)  the court made a finding during the preceding 12 months that the department failed to make reasonable efforts to reunite the child and family; or

(4)  the parent is incarcerated, or the parent's previous incarceration is a significant factor in the duration of the department's conservatorship of the child, and the parent maintains a meaningful role in the child's life, and the department has not documented another reason why it would otherwise be appropriate to terminate parental rights.

(e)  The assessment of whether a parent maintains a meaningful role in the child's life for purposes of Subsection (d)(4) may include consideration of:

(1)  the child's best interests;

(2)  the parent's concern for the child, demonstrated in letters, telephone calls, visits, and other forms of communication and the impact of the communication with the child;

(3)  the parent's efforts to:

(A)  communicate with and work with the department for the purpose of complying with the family service plan; and

(B)  repair, maintain, or build the parent-child relationship;

(4)  limitations on the parent's access to family support programs, therapeutic services, visiting opportunities, and telephone and mail services; and

(5)  limitations on the parent's ability to meaningfully participate in court proceedings.

SECTION 2.  The heading to Section 263.401, Family Code, is amended to read as follows:

Sec. 263.401.  DISMISSAL AFTER TWO YEARS [~~ONE YEAR~~]; NEW TRIALS; EXTENSION.

SECTION 3.  Sections 263.401(a) and (b), Family Code, are amended to read as follows:

(a)  Unless the court has commenced the trial on the merits or granted an extension under Subsection (b) or (b-1), on the first Monday after the second [~~first~~] anniversary of the date the court rendered a temporary order appointing the department as temporary managing conservator, the court's jurisdiction over the suit affecting the parent-child relationship filed by the department that requests termination of the parent-child relationship or requests that the department be named conservator of the child is terminated and all pleadings filed by a party are [~~the suit is~~] automatically dismissed without a court order. Not later than the 60th day before the day the suit and all pleadings belonging to a party are [~~is~~] automatically dismissed, the court shall notify all parties to the suit of the automatic dismissal date.

(b)  Unless the court has commenced the trial on the merits, the court may not retain the suit on the court's docket after the time described by Subsection (a) unless a parent files a motion to extend time or a motion pursuant to Section 263.403 and the court finds that extraordinary circumstances necessitate the child remaining in the temporary managing conservatorship of the department and that continuing the appointment of the department as temporary managing conservator is in the best interest of the child. If the court makes those findings, the court may retain the suit on the court's docket for a period not to exceed 180 days after the time described by Subsection (a). If the court retains the suit on the court's docket, the court shall render an order in which the court:

(1)  schedules the new date on which the suit will be automatically dismissed if the trial on the merits has not commenced, which date must be not later than the 180th day after the time described by Subsection (a);

(2)  makes further temporary orders for the safety and welfare of the child as necessary to avoid further delay in resolving the suit; and

(3)  sets the trial on the merits on a date not later than the date specified under Subdivision (1).

SECTION 4.  The changes in law made by this Act apply to a suit affecting the parent-child relationship that is pending in a trial court on the effective date of this Act or that is filed on or after the effective date of this Act.

SECTION 5.  This Act takes effect September 1, 2023.