

By: Dutton

H.B. No. 956

A BILL TO BE ENTITLED

AN ACT

relating to a suit for possession of or access to a child by a grandparent.

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

SECTION 1. Part 2, Subchapter B, Chapter 107, Family Code, is amended by adding Section 107.024 to read as follows:

Sec. 107.024. APPOINTMENT OF GUARDIAN AD LITEM IN SUIT FOR POSSESSION OR ACCESS BY GRANDPARENT. (a) In a suit filed under Section 153.432 requesting possession of or access to a grandchild, the court shall appoint a guardian ad litem for the grandchild at the request of a grandparent who is a party to the suit.

(b) Notwithstanding Section 107.002(e), a guardian ad litem appointed under this section shall submit to the court a report regarding the guardian ad litem's recommendations relating to:

(1) the grandparent's possession of or access to the grandchild in accordance with Section 153.433; and

(2) the bases for the guardian ad litem's recommendations.

SECTION 2. Section 153.432, Family Code, is amended by adding Subsection (d) to read as follows:

(d) An affidavit submitted under Subsection (c) is not required to contain expert opinion.

SECTION 3. Section 153.433, Family Code, is amended to read as follows:

Sec. 153.433. POSSESSION OF OR ACCESS TO GRANDCHILD. (a)

The court may order reasonable possession of or access to a grandchild by a grandparent if:

(1) at the time the relief is requested, at least one biological or adoptive parent of the child has not had that parent's parental rights terminated; and

(2) the grandparent requesting possession of or access to the child overcomes the presumption that a parent acts in the best interest of the parent's child by proving by a preponderance of the evidence that denial of possession of or access to the child would significantly impair the child's physical health or emotional well-being~~[, and~~

~~[(3) the grandparent requesting possession of or access to the child is a parent of a parent of the child and that parent of the child.~~

~~[(A) has been incarcerated in jail or prison during the three-month period preceding the filing of the petition,~~

~~[(B) has been found by a court to be incompetent,~~

~~[(C) is dead, or~~

~~[(D) does not have actual or court-ordered possession of or access to the child].~~

(a-1) To meet the burden of proof under Subsection (a)(2), a grandparent requesting possession of or access to a grandchild is not required to offer expert testimony.

(b) An order granting possession of or access to a child by a grandparent that is rendered over a parent's objections must state, with specificity, that:

1 (1) at the time the relief was requested, at least one
2 biological or adoptive parent of the child had not had that parent's
3 parental rights terminated; and

4 (2) the grandparent requesting possession of or access
5 to the child has overcome the presumption that a parent acts in the
6 best interest of the parent's child by proving by a preponderance of
7 the evidence that the denial of possession of or access to the child
8 would significantly impair the child's physical health or emotional
9 well-being[; ~~and~~

10 ~~[(3) the grandparent requesting possession of or~~
11 ~~access to the child is a parent of a parent of the child and that~~
12 ~~parent of the child.~~

13 ~~[(A) has been incarcerated in jail or prison~~
14 ~~during the three-month period preceding the filing of the petition;~~

15 ~~[(B) has been found by a court to be incompetent;~~

16 ~~[(C) is dead; or~~

17 ~~[(D) does not have actual or court-ordered~~
18 ~~possession of or access to the child].~~

19 SECTION 4. The change in law made by this Act applies to a
20 suit affecting the parent-child relationship that is pending in a
21 trial court on the effective date of this Act or filed on or after
22 that date.

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