

By: Eckhardt

S.B. No. 2157

A BILL TO BE ENTITLED

AN ACT

relating to the burden of proof in certain suits affecting the parent-child relationship.

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

SECTION 1. Section 153.004, Family Code, is amended by amending Subsection (d-1) to read as follows:

(d-1) Subject to ~~[Notwithstanding]~~ Subsection (d)(2), but notwithstanding Subsection (d)(1), the court may allow a parent to have access to a child if the court:

(1) finds that awarding the parent access to the child would not endanger the child's physical health or emotional welfare and would be in the best interest of the child; and

(2) renders a possession order that is designed to protect the safety and well-being of the child and any other person who has been a victim of family violence committed by the parent and that may include a requirement that:

(A) the periods of access be continuously supervised by an entity or person chosen by the court;

(B) the exchange of possession of the child occur in a protective setting;

(C) the parent abstain from the consumption of alcohol or a controlled substance, as defined by Chapter 481, Health and Safety Code, within 12 hours prior to or during the period of access to the child; or

1 (D) the parent attend and complete a battering
2 intervention and prevention program as provided by Article 42.141,
3 Code of Criminal Procedure, or, if such a program is not available,
4 complete a course of treatment under Section 153.010.

5 (e) It is a rebuttable presumption that it is not in the best
6 interest of a child for a parent to have unsupervised visitation
7 with the child if credible evidence is presented of a history or
8 pattern of past or present child neglect or abuse or family violence
9 by:

10 (1) that parent; or

11 (2) any person who resides in that parent's household
12 or who is permitted by that parent to have unsupervised access to
13 the child during that parent's periods of possession of or access to
14 the child.

15 (f) In determining under this section whether there is
16 credible evidence of a history or pattern of past or present child
17 neglect or abuse or family violence by a parent or other person, as
18 applicable, the court shall consider whether a protective order was
19 rendered under Chapter 85, Title 4, against the parent or other
20 person during the two-year period preceding the filing of the suit
21 or during the pendency of the suit.

22 (g) In this section:

23 (1) "Abuse" and "neglect" have the meanings assigned
24 by Section 261.001.

25 (2) "Family violence" has the meaning assigned by
26 Section 71.004.

27 SECTION 2. The change in law made by this Act applies only

1 to a suit affecting the parent-child relationship filed on or after
2 the effective date of this Act. A suit affecting the parent-child
3 relationship filed before the effective date of this Act is
4 governed by the law in effect on the date the suit was filed, and the
5 former law is continued in effect for that purpose.

6 SECTION 3. This Act takes effect September 1, 2023.