

BILL ANALYSIS

C.S.H.B. 2340
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Judiciary & Civil Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Current law prescribing the qualifications of child custody evaluators does not require such evaluators to receive specific training on the needs of children with intellectual and developmental disabilities, which can potentially lead to improper recommendations. The bill author has informed the committee of concerns raised by constituents, family law attorneys, and a local Montgomery County judge who have encountered cases where custody evaluations failed to account for the specific needs of children with disabilities. C.S.H.B. 2340 seeks to strengthen state law governing child custody evaluations by adding a new training requirement for evaluators, improving record transparency, and restricting the use of evaluations in certain cases.

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.H.B. 2340 amends the Family Code to expand the minimum qualifications for child custody evaluators to provide that, in addition to meeting the qualifications prescribed under current law, to be qualified to conduct a child custody evaluation an individual must complete, during the two-year period preceding the evaluation, at least three hours of initial or continuing training, as applicable, related to the care of a child with an intellectual disability or developmental disability, including education, therapy, preparation for independent living, or methods for addressing physical or mental health challenges. The bill prohibits a court from admitting into evidence a child custody evaluation report if the child who is the subject of the report has an intellectual or developmental disability and, on the date the evaluation that is the subject of the report was made, the child custody evaluator had not satisfied the training requirement under the bill's provisions. However, the prohibition does not apply if the child custody evaluation report is prepared by an individual otherwise qualified to conduct an evaluation who the court appoints to conduct an evaluation when an individual who meets the minimum qualifications is not available in the county to conduct a timely evaluation, applicable only to a county:

- with a population of less than 500,000;
- that is contiguous to the Gulf of Mexico or a bay or inlet opening into the gulf and that borders the United Mexican States; or
- that borders the county described in the immediately preceding bullet.

These provisions apply only to a child custody evaluation that is conducted by a child custody evaluator appointed by a court on or after January 1, 2026. A child custody evaluation conducted by a child custody evaluator appointed by a court before that date is governed by the law in

effect immediately before the bill's effective date, and the former law is continued in effect for that purpose. "Intellectual disability" has the meaning assigned that term in the Health and Safety Code by the Persons with an Intellectual Disability Act and "developmental disability" has the meaning assigned that term by Health and Safety Code provisions governing the Texas Correctional Office on Offenders with Medical or Mental Impairments.

C.S.H.B. 2340 changes the action taken by a private child custody evaluator that triggers the requirement that the evaluator make available in a reasonable time the evaluator's records relating to the evaluation, unless a court has issued an order restricting disclosure of the records. Whereas current law requires the evaluator to make certain records available on written request of an attorney for a party, a party who does not have an attorney, and any person appointed in the suit in which the evaluator conducted the evaluation after the private child custody evaluator prepares and files a child custody evaluation report, the bill requires the evaluator to make certain records available on request instead after the evaluator files a notice with the court that the report is complete. In addition, the bill expands the types of records that are exempt from disclosure after such a filing. Whereas current law, in that same provision, exempts from that requirement only records obtained from the Department of Family and Protective Services regarding abuse or neglect that relates to any person residing in the residence subject to the evaluation, the bill additionally exempts from that requirement records that relate to any person residing in a residence subject to an evaluation from a local law enforcement authority, a criminal justice agency, a juvenile justice agency, a community supervision and corrections department, or any other governmental entity. This provision applies to a disclosure of information made on or after the bill's effective date.

C.S.H.B. 2340 changes the action taken by an employee of or contractor with a domestic relations office who conducts a child custody evaluation that triggers the requirement that records relating to the evaluation be made available on written request according to the local rules and policies of the domestic relations office. Whereas current law requires the records to be made available after the applicable employee or contractor prepares and files a child custody evaluation report, the bill requires the records to be made available instead after the applicable evaluator files a notice with the court that the report is complete. The bill exempts the records from disclosure if the court has issued an order restricting disclosure of those records and provides the following additional changes in that same provision:

- whereas current law exempts from that requirement only records obtained from the Department of Family and Protective Services regarding abuse or neglect that relates to any person residing in the residence subject to the evaluation, the bill additionally exempts from that requirement records that relate to any person residing in a residence subject to an evaluation from a local law enforcement authority, a criminal justice agency, a juvenile justice agency, a community supervision and corrections department, or any other governmental entity; and
- whereas current law requires the records to be made available on written request according to the local rules and policies of the applicable domestic relations office, the bill specifies that such a written request is instead that of an attorney for a party, a party who does not have an attorney, and any person appointed in the suit in which the evaluator conducted the evaluation.

This provision applies to a disclosure of information made on or after the bill's effective date.

C.S.H.B. 2340 changes the provision establishing the basis for determining when the required retention period ends for all records relating to a child custody evaluation conducted by a private child custody evaluator. Whereas current law provides that the ending date of the retention period is the period adopted by the licensing authority that issues the professional license held by the evaluator based on the date the evaluator filed the child custody evaluation report with the court, the bill bases the ending date of the adopted retention period instead on the date the evaluator filed a notice with the court that the report is complete. This provision applies to all records in the possession of a child custody evaluator on or after the bill's effective date, regardless of whether the records were created before, on, or after that date.

C.S.H.B. 2340 requires a child custody evaluator to redact any social security number or child's birth date from records subject to disclosure under provisions relating to communications and recordkeeping of evaluators before making the records available. This provision applies to a disclosure of information made on or after the bill's effective date.

EFFECTIVE DATE

September 1, 2025.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 2340 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

Both the introduced and the substitute require child custody evaluators to complete training related to the care of a child with an intellectual or developmental disability that includes certain topics. However, whereas the introduced provided for the training to include all of the specified topics, the substitute provides for the training to include any of the specified topics.

With respect to the prohibition against a court admitting into evidence a child custody evaluation report if the child who is the subject of the report has an intellectual or developmental disability and the child custody evaluator has not satisfied the training requirement under the bill's provisions, the substitute clarifies that the prohibition applies if the child custody evaluator had not satisfied the training requirement on the date the evaluation that is the subject of the report was made, whereas the introduced did not.