

## **BILL ANALYSIS**

C.S.H.B. 3281

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Judiciary & Civil Jurisprudence

Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

The bill author has informed the committee that family law practitioners and child welfare advocates have highlighted inconsistencies and challenges in the current legal framework establishing the procedures and grounds for terminating the parent-child relationship. C.S.H.B. 3281 aims to clarify existing guidelines and procedures to ensure that decisions regarding the termination of parental rights are made in the best interests of the child. The bill takes these actions with the goal of streamlining and standardizing the process of terminating parental rights and ensuring that all parties involved understand the legal standards and expectations.

### **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. 3281 amends the Family Code to revise the authorization for a court to order termination of the parent-child relationship if the court finds that the parent has met certain grounds for termination and that termination is in the best interest of the child by changing the evidentiary standard of such findings from clear and convincing evidence to proof beyond a reasonable doubt. The bill makes the following changes to those grounds for termination:

- replaces as grounds for termination that a parent has knowingly placed or allowed the child to remain in conditions or surroundings which endanger the physical or emotional well-being of the child with the grounds that a parent knowingly placed or allowed the child to remain in conditions or surroundings that placed the child in immediate danger such that continuation of the parent-child relationship is likely to result in physical injury or serious emotional injury to the child;
- replaces as grounds for termination that a parent engaged in conduct or knowingly placed the child with persons who engaged in conduct which endangers the physical or emotional well-being of the child with the grounds that a parent engaged in conduct or knowingly placed the child with persons who engaged in conduct that placed the child in immediate danger such that continuation of the parent-child relationship is likely to result in physical injury or serious emotional injury to the child;
- removes as grounds for termination a parent being the major cause of the failure of the child to be enrolled in school or the child's absence from the child's home without the consent of the parents or guardian for a substantial length of time or without the intent to return;

- removes as grounds for termination a parent having had the parent's parent-child relationship terminated with respect to another child based on a certain finding by the court regarding the parent's conduct;
- revises as follows the grounds for termination of a parent having constructively abandoned the child who has been in the permanent or temporary managing conservatorship of the Department of Family and Protective Services (DFPS) for not less than six months, when DFPS has made reasonable efforts to return the child to the parent, the parent has not regularly visited or maintained significant contact with the child, and the parent has demonstrated an inability to provide the child with a safe environment:
  - specifies that the grounds are applicable to a parent who has constructively abandoned the child for at least six consecutive months while the child was in the permanent or temporary managing conservatorship of DFPS;
  - replaces the condition that the parent has not regularly visited or maintained significant contact with the child with a condition that the parent has not visited or maintained contact with the child; and
  - removes the condition that the parent has demonstrated an inability to provide the child with a safe environment;
- removes as grounds for termination a parent having failed to comply with the provisions of a court order that specifically established the actions necessary for the parent to obtain the return of the child who has been in the permanent or temporary managing conservatorship of DFPS for not less than nine months as a result of the child's removal from the parent under applicable state law for the abuse or neglect of the child; and
- replaces as grounds for termination a parent having used a controlled substance in a manner that endangered the health or safety of the child, as applicable, with the grounds that a parent used a controlled substance in a manner that placed the child in immediate danger such that continuation of the parent-child relationship is likely to result in physical injury or serious emotional injury to the child, as applicable.

C.S.H.B. 3281, with respect to the provision establishing the specified actions under current law evidence of which does not constitute clear and convincing evidence sufficient for a court to make a finding that triggers the authorization for the court to order termination of the parent-child relationship, clarifies that such evidence that is insufficient and does not trigger the authorization is evidence that does not provide proof beyond a reasonable doubt. The bill revises the authorization for a court that finds that certain actions were taken by DFPS to return a child to a parent, in a suit for termination of the parent-child relationship filed by DFPS, to order termination by changing the evidentiary standard by which a court must make such a finding from clear and convincing evidence to proof beyond a reasonable doubt. The bill requires a court, in such a DFPS-filed termination suit in which DFPS made reasonable efforts to return the child to the child's home but a continuing danger in the home prevented the child's return, to include in a separate section of its order written findings describing with specificity the continuing danger that remains in the home that prevents the return of the child to the parent.

C.S.H.B. 3281 revises the requirement for a court to order the termination of the parent-child relationship if the court finds that the parent engaged in conduct that constituted an applicable Penal Code offense which resulted in the victim of the conduct becoming pregnant with the parent's child and that termination is in the best interest of the child, by changing the evidentiary standard for such findings from clear and convincing evidence to proof beyond a reasonable doubt. The bill additionally changes the evidentiary standard in the same manner applicable to the requirement, which the bill revises to be an authorization, for a court that finds grounds for termination of the parent-child relationship to render an order terminating the relationship and the authorization for a court that finds grounds for the termination of the parent-child relationship, in a suit filed by DFPS seeking termination of that relationship for more than one parent of the child, to order the termination of the relationship for the applicable parent.

C.S.H.B. 3281 repeals the following provisions of the Family Code:

- Sections 161.001(d) and (d-1);

- Section 161.003, relating to the authorization for a court to order the termination of the parent-child relationship in a suit filed by DFPS due to the parent's inability to care for the child; and
- Section 264.101(b).

C.S.H.B. 3281 applies only to a suit affecting the parent-child relationship that is filed on or after the bill's effective date. A suit filed before the bill's effective date is governed by the law in effect on the date the suit is filed, and the former law is continued in effect for that purpose.

### **EFFECTIVE DATE**

September 1, 2025.

### **COMPARISON OF INTRODUCED AND SUBSTITUTE**

While C.S.H.B. 3281 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 replace as grounds for termination that a parent has knowingly placed or allowed the child to remain in conditions or surroundings which endanger the physical or emotional well-being of the child with the grounds that a parent knowingly placed or allowed the child to remain in conditions or surroundings that placed the child in immediate danger. However, while the introduced specified that the immediate danger must result in serious bodily injury or physical or mental impairment, the substitute instead specifies that the immediate danger is such that continuation of the parent-child relationship is likely to result in physical injury or serious emotional injury to the child. The substitute similarly revises the introduced version's specification relating to the immediate danger of a child in the following provisions:

- the bill's replacement as grounds for termination that a parent engaged in conduct or knowingly placed the child with persons who engaged in conduct which endangers the physical or emotional well-being of the child with the grounds that a parent engaged in conduct or knowingly placed the child with persons who engaged in conduct that placed the child in immediate danger; and
- the bill's replacement as grounds for termination a parent having used a controlled substance in a manner that endangered the health and safety of the child, given certain conditions, with grounds that the parent used controlled substances in a manner that placed the child in immediate danger, given those conditions.

Whereas the introduced removed as grounds for termination a parent having constructively abandoned the child who has been in the permanent or temporary managing conservatorship of DFPS for not less than six months, along with other specified conditions, the substitute instead does the following:

- specifies that grounds are applicable to a parent who has constructively abandoned the child for at least six consecutive months while the child was in the permanent or temporary managing conservatorship of DFPS;
- replaces the condition that the parent has not regularly visited or maintained significant contact with the child with a condition that the parent has not visited or maintained contact with the child; and
- removes the condition that the parent has demonstrated an inability to provide the child with a safe environment.

The substitute includes a provision absent from the introduced that replaces the requirement for a court that finds grounds for termination, as applicable, of the parent-child relationship to render an order terminating the relationship with an authorization for the court to do so.