

BILL ANALYSIS

C.S.H.B. 4656
By: Vasut
Judiciary & Civil Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The bill author has informed the committee that an issue of parental rights has been highlighted in the Supreme Court of Texas case *In re C.J.C., Relator* and that traditionally, parents are presumed to be fit in making decisions in the best interest of their child. However, the bill author has also informed the committee that this is not stated in statute for modification proceedings when transferring custody of the parent's child to a third party and that the Supreme Court of Texas in that case ruled that parents have the "fundamental right to make decisions concerning the care, custody, and control" of that child. The bill author has further informed the committee that while current statute does not conflict with this ruling, it is not directly stated in statute either. C.S.H.B. 4656 seeks to codify a Supreme Court of Texas ruling by clarifying that suits by nonparents requesting conservatorship, possession, or access to the child must overcome the presumption that a parent acts in the best interest of the parent's child and that it is in the best interest of a child to be in the care, custody, and control of a parent.

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. 4656 amends the Family Code to require a nonparent who files or intervenes in a suit affecting the parent-child relationship in which another party to the suit is a parent of the child to execute and serve with the nonparent's initial pleading an affidavit that does the following:

- attests, based on the nonparent's personal knowledge or representations made to the nonparent by a person with personal knowledge of the matter, that denying the relief sought would significantly impair the child's physical health or emotional development; and
- contains facts that support such allegation.

The bill requires the court to deny the relief sought and dismiss the suit or strike the intervention, as applicable, unless the court determines, based on the affidavit, that the affidavit contains facts adequate to support the allegation that denying the relief sought would significantly impair the child's physical health or emotional development.

C.S.H.B. 4656 establishes that in a suit between a parent and a nonparent relating to conservatorship or possession of and access to a child, it is a rebuttable presumption that a parent acts in the best interest of the parent's child and it is in the best interest of a child to be in the care, custody, and control of a parent. The bill establishes that in such a suit between the parent

and a nonparent, the nonparent may overcome those presumptions by proving by clear and convincing evidence that denial of the relief requested by the nonparent would significantly impair the child's physical health or emotional development. If the court renders an order in the suit granting relief to the nonparent, the court must state in the order that the rebuttable presumptions have been overcome along with the specific facts that support the court's finding that denying the relief requested by the nonparent would significantly impair the child's physical health or emotional development.

C.S.H.B. 4656 establishes that a nonparent, in a suit for modification between a parent and a nonparent, must overcome the rebuttable presumptions established by the bill by clear and convincing evidence and establishes that the nonparent may not overcome the presumptions on the basis of a prior order granting relief to the nonparent if the parent agreed to the prior order.

C.S.H.B. 4656 applies to a suit affecting the parent-child relationship that is pending in a trial court on or after the bill's effective date or filed on or after that date.

EFFECTIVE DATE

September 1, 2025.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 4656 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.

The substitute includes provisions absent from the introduced that do the following:

- require a nonparent who files or intervenes in a suit affecting the parent-child relationship in which another party to the suit is a parent of the child to execute and serve with the nonparent's initial pleading an affidavit that attests, based on the nonparent's personal knowledge or representations made to the nonparent by a person with personal knowledge of the matter, that denying the relief sought would significantly impair the child's physical health or emotional development and contains facts that support such allegation;
- require a court in such a suit to deny the relief sought and dismiss the suit or strike the intervention, as applicable, unless the court determines, based on that affidavit, that the affidavit contains facts adequate to support the allegation that denying the relief would significantly impair the child's physical health or emotional development; and
- require a court, if a court renders an order in a suit granting relief to a nonparent, to state in an order that the rebuttable presumptions established by the bill has been overcome along with the specific facts that support the court's finding that denying the relief requested by the nonparent would significantly impair the child's physical health or emotional development.

With respect to the rebuttable presumptions established by the bill in a suit for modification between a parent and a nonparent, whereas the introduced established that the presumptions are rebutted if, in the order subject to modification, the presumption was rebutted with respect to the child who is the subject of a suit affecting the parent-child relationship, the substitute establishes that the nonparent in such a suit must overcome the presumptions by clear and convincing evidence and establishes that the nonparent may not overcome the presumptions on the basis of a prior order granting relief to the nonparent if the parent agreed to the prior order.