

BILL ANALYSIS

S.B. 2052
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Judiciary & Civil Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The bill sponsor 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 sponsor 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 sponsor has further informed the committee that while current statute does not conflict with this ruling, it is not directly stated in statute either. S.B. 2052 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

S.B. 2052 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.

S.B. 2052 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 the extent to which the nonparent has overcome the rebuttable presumptions 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.

S.B. 2052 establishes that a nonparent, in a suit for modification between a parent and a nonparent and if required to overcome the rebuttable presumptions established by the bill, must overcome those presumptions by clear and convincing evidence. The bill establishes that such a 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.

S.B. 2052 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.