

BILL ANALYSIS

Senate Research Center

C.S.S.B. 2052
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Jurisprudence
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

An issue of parental rights has been highlighted in Supreme Court of Texas case *In Re C.J.C., Relator*. Traditionally, parents are presumed to be fit in making decisions in the best interest of their child. However, this is not stated in statute for modification proceedings when transferring custody of the parent's child to a third party. The Texas Supreme Court Justices in *In Re C.J.C., Relator* ruled that parents have the "fundamental right to make decisions concerning the care, custody, and control" of that child. Current statute does not conflict with this ruling, however it is not directly stated in statute either.

S.B. 2052 codifies a Supreme Court of Texas ruling, and clarifies 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 it is in the best interest of a child to be in the care, custody, and control of a parent.

(Original Author's/Sponsor's Statement of Intent)

C.S.S.B. 2052 amends current law relating to suits affecting the parent-child relationship between a parent and a nonparent.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 102, Family Code, by adding Section 102.0031, as follows:

Sec. 102.0031. REQUIRED AFFIDAVIT FOR STANDING OF NONPARENT. (a) Requires 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:

(1) 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

(2) contains facts that support the allegation under Subdivision (1).

(b) 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 under Subsection (a)(1).

SECTION 2. Amends Section 153.002, Family Code, as follows:

Sec. 153.002. New heading: BEST INTEREST OF CHILD; REBUTTABLE PRESUMPTION IN SUIT BETWEEN PARENT AND NONPARENT. (a) Creates this subsection from existing text and makes no further changes.

(b) Provides that, in a suit between a parent and a nonparent, 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.

(c) Authorizes the nonparent, in a suit between a parent and a nonparent, to overcome the presumption under Subsection (b) 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. Requires the court, if the court renders an order in the suit granting relief to the nonparent, to state in the order:

(1) 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; and

(2) the extent to which the nonparent has overcome the presumption under Subsection (b).

SECTION 3. Amends Subchapter A, Chapter 156, Family Code, by adding Section 156.008, as follows:

Sec. 156.008. ADDITIONAL REQUIREMENTS IN SUIT FOR MODIFICATION BETWEEN PARENT AND NONPARENT. Provides that, in a suit for modification between a parent and a nonparent, the nonparent is:

(1) if required to overcome the presumption under Section 153.002(b), is required to overcome the presumption by clear and convincing evidence; and

(2) prohibited to overcome the presumption under Section 153.002(b) on the basis of a prior order granting relief to the nonparent if the parent agreed to the prior order.

SECTION 4. Makes application of this Act prospective.

SECTION 5. Effective date: September 1, 2025.