By: Zwiener H.B. No. 768

A BILL TO BE ENTITLED

AN ACT

relating to the taking of certain depositions and the dismissal of certain civil actions in connection with allegations of family violence and abusive conduct.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 20, Civil Practice and Remedies Code, is amended by adding Section 20.002 to read as follows:

Sec. 20.002. DEPOSITION OF ALLEGED VICTIM OF FAMILY VIOLENCE OR ABUSIVE CONDUCT. (a) In this section:

(1) "Abusive conduct" means conduct constituting an offense under Section 20A.02, 20A.03, 21.02, 21.11, 22.011, 22.012, 22.021, 42.072, or 43.05, Penal Code.

(2) "Family violence" has the meaning assigned by Section 71.004, Family Code.

(b) This section applies to a petition for an order authorizing the taking of a deposition on oral examination of a respondent who alleges that the respondent is a victim of family violence or abusive conduct perpetrated by the petitioner.

(c) If an allegation of family violence or abusive conduct described by Subsection (b) is made by a respondent to the court in connection with a petition described by that subsection, the petitioner must:

(1) disclose whether the petitioner is or was subject to:

(A) a protective order rendered under Subchapter A, Chapter 7B, Code of Criminal Procedure, or Chapter 85, Family Code; or

(B) a criminal complaint arising out of abusive conduct; and

(2) provide a copy of each order or complaint described by Subdivision (1) to the court, if applicable.

(d) A trial court shall deny a petition described by Subsection (b) if the court finds, by clear and convincing evidence, that:

(1) the petitioner has a history or pattern of family violence or abusive conduct involving the alleged victim; and

(2) the purpose of the petition is to harass, intimidate, or control the alleged victim.

(e) A trial court may conduct an evidentiary hearing on a petition described by Subsection (b) if an allegation of family violence or abusive conduct described by Subsection (b) is made by a respondent to the court in connection with the petition.

(f) When a trial court denies a petition under this section, the court may award costs and attorney's fees to the respondent on request.

SECTION 2. Section 30.021, Civil Practice and Remedies Code, is amended to read as follows:

Sec. 30.021. AWARD OF ATTORNEY'S FEES IN RELATION TO CERTAIN MOTIONS TO DISMISS. (a) In a civil proceeding, on a trial court's granting or denial, in whole or in part, of a motion to dismiss filed under the rules adopted by the supreme court under

Section 22.004(g), Government Code, the court may award costs and reasonable and necessary attorney's fees to the prevailing party. This section does not apply to actions by or against the state, other governmental entities, or public officials acting in their official capacity or under color of law.

(b) When a trial court grants a motion to dismiss under Section 30.025, the court may award costs and attorney's fees to the prevailing movant on request.

SECTION 3. Chapter 30, Civil Practice and Remedies Code, is amended by adding Section 30.025 to read as follows:

Sec. 30.025. MOTION TO DISMISS INVOLVING ALLEGATIONS OF FAMILY VIOLENCE OR ABUSIVE CONDUCT. (a) In this section:

(1) "Abusive conduct" means conduct constituting an offense under Section 20A.02, 20A.03, 21.02, 21.11, 22.011, 22.012, 22.021, 42.072, or 43.05, Penal Code.

(2) "Family violence" has the meaning assigned by Section 71.004, Family Code.

(b) This section applies to a motion to dismiss a civil proceeding by a movant who alleges that the movant is a victim of family violence or abusive conduct perpetrated by the respondent.

(c) A defendant to a civil proceeding may file a motion to dismiss the underlying proceeding if the defendant alleges that the defendant is a victim of family violence or abusive conduct perpetrated by the claimant.

(d) When filing a response to a motion to dismiss in which a movant alleges that the purpose of the underlying civil proceeding is to harass, intimidate, or control an alleged victim of family

violence or abusive conduct, the respondent must:

(1) disclose whether the respondent is or was subject to:

(A) a protective order rendered under Subchapter A, Chapter 7B, Code of Criminal Procedure, or Chapter 85, Family Code; or

(B) a criminal complaint arising out of abusive conduct; and

(2) include a copy of each order or complaint described by Subdivision (1) with the response, if applicable.

(e) A trial court shall grant a motion to dismiss described by Subsection (b) if the court finds, by clear and convincing evidence, that:

(1) the respondent has a history or pattern of family violence or abusive conduct involving the alleged victim; and

(2) the purpose of the civil proceeding is to harass, intimidate, or control the alleged victim.

(f) A trial court may conduct an evidentiary hearing on a motion to dismiss described by Subsection (b) if an allegation of family violence or abusive conduct is made by a movant to the court in connection with the civil proceeding.

SECTION 4. The changes in law made by this Act apply only to a petition for an order authorizing the taking of a deposition on oral examination or a motion to dismiss filed on or after the effective date of this Act. A petition or motion filed before the effective date of this Act is governed by the law as it existed immediately before that date, and that law is continued in effect

for that purpose.

SECTION 5. This Act takes effect September 1, 2027.