

BILL ANALYSIS

Senate Research Center
83R16998 YDB-D

C.S.S.B. 768
By: Uresti
Jurisprudence
4/3/2013
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The federal Child Abuse Prevention and Treatment Act (CAPTA) provides federal funding to states in support of prevention, assessment, investigation, prosecution, and treatment activities and also provides grants to public agencies and nonprofit organizations for demonstration programs and projects. CAPTA also sets forth a minimum definition of child abuse and neglect.

CAPTA was originally enacted in 1974 and, most recently, was amended and reauthorized by the Keeping Children and Families Safe Act of 2003.

C.S.S.B. 768 is a technical clean-up bill that ensures the compliance of Texas code with CAPTA as most recently amended.

C.S.S.B. 768 amends current law relating to suits affecting the parent-child relationship.

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 Section 107.011(a), Family Code, to require the court, except as otherwise provided by this subchapter, in a suit filed by a governmental entity seeking termination of the parent-child relationship or the appointment of a conservator for a child, to appoint a guardian ad litem to represent the best interests of the child immediately after the filing of the petition but before an adversary hearing conducted under Subchapter C (Adversary Hearing), Chapter 262 (Procedures in Suit by Governmental Entity to Protect Health and Safety of Child), rather than the full adversary hearing.

SECTION 2. Amends Section 107.012, Family Code, to require the court, in a suit filed by a governmental entity requesting termination of the parent-child relationship or to be named conservator of a child, to appoint an attorney ad litem to represent the interests of the child immediately after the filing, but before an adversary hearing conducted under Subchapter C, Chapter 262, rather than before the full adversary hearing, to ensure adequate representation of the child.

SECTION 3. Amends Section 161.001, Family Code, as follows:

Sec. 161.001. INVOLUNTARY TERMINATION OF PARENT-CHILD RELATIONSHIP. Authorizes the court to order termination of the parent-child relationship if the court finds by clear and convincing evidence:

(1) that the parent has:

(A)-(K) Makes no changes to these paragraphs;

(L) been convicted or has been placed on community supervision, including deferred adjudication community supervision, for being

criminally responsible for the death or serious injury of a child under certain sections of the Penal Code, or under a law of another state, federal law, or the Uniform Code of Military Justice that contains elements that are substantially similar to the elements of an offense under one of certain enumerated Penal Code sections, or adjudicated under Title 3 (Punishments) for conduct that caused the death or serious injury of a child and that would constitute a violation of one of certain enumerated Penal Code sections; or

(M)-(S) Makes no changes to these paragraphs; or

(T) been convicted of certain offenses under certain Penal Code sections, or under a law of another state, federal law, or certain elements of the Uniform Code of Military Justice. Deletes the law of a foreign country from the afore mentioned list; and

(2) Makes no change to this subdivision.

SECTION 4. Amends Section 201.2041(b), Family Code, to provide that for purposes of Sections 263.401 (Dismissal After One Year; Extension) and 263.403 (Monitored Return of Child to Parent), a suit is not required to be dismissed if the associate judge commences the trial on the merits before the applicable deadline for dismissal regardless of whether a de novo hearing is requested before the referring court after the trial before the associate judge concludes, rather than providing that regardless of whether a de novo hearing is requested before the referring court, a proposed order or judgment rendered by an associate judge that meets the requirements of Section 263.401(d) (relating to elements of a final order) is considered a final order for purposes of Section 263.401.

SECTION 5. Amends Section 262.1095(a), Family Code, as follows:

(a) Provides that when the Department of Family and Protective Services (DFPS) or another agency takes possession of a child under this chapter, DFPS:

(1) is required to provide information as prescribed by this section to each adult DFPS is able to identify and locate who is related to the child within the third degree by consanguinity as determined under Chapter 573 (Degrees of Relationship; Nepotism Prohibitions), Government Code, or is an adult relative of the alleged father of the child who DFPS determines is most likely to be the child's biological father, or, rather than and, is identified as a potential relative or designated caregiver, as defined by Section 264.751 (Definitions), on the proposed child placement resources form provided under Section 261.307 (Information Relating to Investigation Procedure); and

(2) Makes no change to this subdivision.

SECTION 6. Amends Section 262.2015(b), Family Code, as follows:

(b) Authorizes the court to find under Subsection (a) (relating to a court's authority to waive certain requirements upon certain findings of aggravated circumstances) that a parent has subjected the child to aggravated circumstances if:

(1) Makes no change to this subdivision;

(2) the child or another child of the parent is, rather than the child is, a victim of serious bodily injury or sexual abuse inflicted by the parent or by another person with the parent's consent;

(3)-(5) Makes no changes to these subdivisions;

(6)-(7) Makes nonsubstantive changes to these subdivisions; or

(8) the parent is required under any state or federal law to register with a sex offender registry.

SECTION 7. Amends Section 263.401, Family Code, by adding Subsection (b-1) and amending Subsection (c), as follows:

(b-1) Authorizes the court, if, after commencement of the initial trial on the merits within the time required by Subsection (a) (requiring dismissal of a certain suit affecting the parent-child relationship under certain circumstances) or (b) (relating to retention of a certain suit on the court's docket), the court grants a motion for a new trial or mistrial, or the case is remanded to the court by an appellate court following an appeal of the court's final order, to retain the suit on the court's docket. Requires the court, if the court retains the suit on the court's docket, to render an order in which the court:

(1) schedules a new date on which the suit will be dismissed if the new trial has not commenced, which is required to be a date not later than the 180th day after the date:

(A) the motion for new trial or mistrial is granted; or

(B) the appellate court remanded the case;

(2) makes further temporary orders for the safety and welfare of the child as necessary to avoid further delay in resolving the suit; and

(3) sets the new trial on the merits for a date not later than the date specified under Subdivision (1).

(c) Requires the court, if the court grants an extension under Subsection (b) or (b-1) but does not commence the trial on the merits before the new dismissal date, rather than if the court grants an extension but does not commence the trial on the merits before the required date for dismissal under Subsection (b), to dismiss the suit. Prohibits the court from granting an additional extension that extends the suit beyond the required date for dismissal under Subsection (b) or (b-1).

SECTION 8. Amends Section 263.403, Family Code, by adding Subsections (c-1) and (c-2), as follows:

(c-1) Authorizes the court, if, after commencement of the initial trial on the merits within the time required by Subsection (b) (requiring the inclusion of certain specific findings and the scheduling of a new date for dismissal under certain circumstances) or (c) (relating to a new dismissal date under certain circumstances), the court grants a motion for a new trial or mistrial, or the case is remanded to the court by an appellate court following an appeal of the court's final order, to retain the suit on the court's docket. Requires the court, if the court retains the suit on the court's docket, to render an order in which the court:

(1) schedules a new date on which the suit will be dismissed if the new trial has not commenced, which is required to be a date not later than the 180th day after the date:

(A) the motion for new trial or mistrial is granted; or

(B) the appellate court remanded the case;

(2) makes further temporary orders for the safety and welfare of the child as necessary to avoid further delay in resolving the suit; and

(3) sets the new trial on the merits for a date not later than the date specified under Subdivision (1).

(c-2) Requires the court, if the court grants an extension under Subsection (b), (c), or (c-1) but does not commence the trial on the merits before the new dismissal date, to dismiss the suit. Prohibits the court from granting an additional extension that extends the suit beyond the required date for dismissal under Subsection (b), (c), or (c-1).

SECTION 9. (a) Makes application of this Act prospective, except as otherwise provided by this section.

(b) Provides that the changes in law made by this Act to Sections 201.2041, 263.401, and 263.403, Family Code, apply to a suit affecting the parent-child relationship pending in a trial court on or filed on or after the effective date of this Act.

SECTION 10. Effective date: September 1, 2013.