

BILL ANALYSIS

Senate Research Center
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S.B. 185
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Children's abilities to attain permanency can be delayed by Child Protective Services (CPS) trials that can take years to complete. Section 263.401, Family Code, currently establishes a one-year deadline by which CPS trials must commence. It does this by requiring that, unless the trial has been commenced within one year, the court loses its jurisdiction over the case and the suit is automatically dismissed. The statute was originally enacted to expedite permanency for children involved in CPS cases by providing a limit on the length of time that the cases could last. In providing this limit, the legislature sought to minimize trauma and maximize stability for children involved in CPS cases.

Although there is a statutory deadline by which trials must be commenced, there is currently no deadline by which trials must be completed. This means that even if a trial is commenced within a timely period, it does not have to be completed within a timely period. In certain cases, trials can continue for months or even years before they are completed. This occurs when a court periodically convenes and recesses trial proceedings, extending the length of a trial well beyond the length necessary to resolve the case. Such delays negatively impact children by leaving them in a period of uncertainty during which they cannot attain permanency.

S.B. 185 establishes a 90-day deadline by which CPS trials, once commenced, must be completed. In December 2018, the First Court of Appeals issued a concurring opinion that brought attention to this issue. In the case in which the opinion was issued, the CPS trial was commenced within the one-year deadline but took nearly an additional two years to be completed. The reason that the trial took so long was that the court periodically convened then recessed the trial for months at a time before it eventually concluded the trial. This meant that the children were left without certainty for their futures for nearly three years instead of the legislatively intended one year.

S.B. 185 remedies the problem of trials not being completed in a timely manner by establishing a deadline by which CPS trials, once commenced, must be completed. This deadline would require a final order to be issued within 90 days of the commencement of the trial. Additionally, it would allow a 30-day extension of the deadline in extraordinary circumstances. This change would benefit children involved in CPS cases by providing them with permanency in a reasonable amount of time.

As proposed, S.B. 185 amends current law relating to the time for rendering a final order in certain suits affecting the parent-child relationship involving the Department of Family and Protective Services.

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 Subchapter E, Chapter 263, Family Code, by adding Section 263.4011, as follows:

Sec. 263.4011. RENDERING FINAL ORDER; EXTENSION. (a) Requires the court, on timely commencement of the trial on the merits of certain suits affecting the parent-child relationship involving the Department of Family and Protective Services under Section 263.401 (Dismissal After One Year; New Trials; Extension), to render a final order not later than the 90th day after the date the trial commences.

(b) Provides that the 90-day period for rendering a final order under Subsection (a) is not tolled for any recess during the trial.

(c) Authorizes the court, if the court finds that extraordinary circumstances necessitate extending the 90-day period under Subsection (a), to grant one extension of that date for not longer than 30 days. Requires the court to render a written order specifying the grounds on which the extension is granted and requiring that a final order be rendered not later than the 30th day after the date the extension is granted.

(d) Authorizes a party to file a mandamus proceeding if the court fails to render a final order within the time required by this section.

SECTION 2. Makes application of Section 263.4011, Family Code, as added by this Act, prospective.

SECTION 3. Effective date: September 1, 2021.