

BILL ANALYSIS

Senate Research Center
82R27324 KKA-F

C.S.H.B. 2488
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Jurisprudence
5/11/2011
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

A guardian and attorney ad litem appointed to represent a child in a suit affecting the parent-child relationship must review pertinent medical and mental health records of the child in order to fulfill their duties and act in the child's best interests. There is a concern that current law does not clearly address whether medical and mental health providers are prohibited by federal law from providing these records to such child advocates, who can experience significant delays in receiving the records or may not receive them at all.

C.S.H.B. 2488 seeks to address this issue by requiring, rather than permitting, certain medical and mental health providers to release these records to certain court-appointed representatives in proceedings relating to a suit affecting the parent-child relationship.

C.S.H.B. 2488 amends current law relating to access to a child's medical records by the child's attorney ad litem, guardian ad litem, or amicus attorney.

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 107.006, Family Code, by amending Subsections (a) and (c) and adding Subsections (d), (e), and (f), as follows:

(a) Requires the court, in conjunction with an appointment under this chapter, other than an appointment of an attorney ad litem for an adult or a parent, to issue an order authorizing the attorney ad litem, guardian ad litem for the child, or amicus attorney to have immediate access to the child and any information relating to the child. Deletes existing text providing for an exception to this subsection as provided by Subsection (c).

(c) Requires the custodian of a medical, mental health, or drug or alcohol treatment record of a child that is privileged or confidential under other law, without requiring a further order or release, to release the record to a person authorized to access the record under Subsection (a), except that a child's drug or alcohol treatment record that is confidential under 42 U.S.C. Section 290dd-2 may only be released as provided under applicable federal regulations. Deletes existing text authorizing a medical, mental health, or drug or alcohol treatment record of a child that is privileged or confidential under other law to be released to a person appointed under Subsection (a) only in accordance with other law.

(d) Provides that the disclosure of a confidential record under this section does not affect the confidentiality of the record, and prohibits the person provided access to the record from disclosing the record further except as provided by court order or other law.

(e) Provides that, notwithstanding the provisions of this section, the requirements of Section 159.008 (Physician Fees for Information), Occupations Code, apply.

(f) Requires that records obtained under this section be destroyed on termination of the appointment.

SECTION 2. Effective date: upon passage or September 1, 2011.