

BILL ANALYSIS

C.S.H.B. 2794
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Judiciary & Civil Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties report that a small percentage of home school alumni have experienced what has been called identification abuse, which is the restricting or withholding of important identification documents by parents or guardians. The parties point out that it can be difficult for the victims of identification abuse to obtain these identification documents, particularly birth certificates. To address these concerns, C.S.H.B. 2794 seeks to make it easier for victims of identification abuse to obtain a delayed birth certificate.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill expressly does one or more of the following: creates a criminal offense, increases the punishment for an existing criminal offense or category of offenses, or changes the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 2794 amends the Health and Safety Code to change the venue in which a person is authorized to file a petition for an order establishing a record of the person's date of birth, place of birth, and parentage, if a delayed birth certificate is not accepted for registration by the state registrar, from the county probate court of the county in which the birth occurred to the district court with jurisdiction over the county in which the birth occurred or to the district court with jurisdiction over the county in which the person resides. The bill requires the petition to include the name and place of residence of the petitioner; whether the petitioner has been the subject of a final felony conviction; whether the petitioner is required to register as a sex offender; and a legible and complete set of the petitioner's fingerprints on a fingerprint card format acceptable to the Department of Public Safety and the Federal Bureau of Investigation. The bill clarifies that the statutory requirement of the court to make findings as to the person's date and place of birth and parentage, to make other findings required by the case, and to enter an order to establish a record of birth is conditional on the court, after a hearing, finding from the evidence submitted to the registrar and any other relevant evidence presented by the person that the person was born in Texas.

C.S.H.B. 2794 authorizes a judge of a district court to appoint an attorney ad litem in the proceeding to represent the interests of the person seeking the delayed birth certificate. The bill requires a parent of a person who is seeking the delayed birth certificate to sign an affidavit of personal knowledge acknowledging that the individual is the parent of the person seeking the delayed birth certificate under the following conditions: the person seeking a delayed birth certificate, a managing conservator or guardian of the person, or, if the person is a minor, another

person with custody of the minor has requested the person's parent to sign the affidavit of personal knowledge; and the parent's affidavit of personal knowledge is necessary for the issuance of the birth certificate because the person seeking the delayed birth certificate is unable to provide sufficient alternative documentary evidence. The bill requires a parent to sign the affidavit not later than the 30th day after the date the request is made. The bill makes it a Class B misdemeanor for a person who is a parent of a person seeking a delayed birth certificate to fail to sign an affidavit of personal knowledge by the deadline if the request for the signed affidavit is made on or after the fourth anniversary of the date of birth but before the 15th anniversary of the date of birth. The bill makes it a Class A misdemeanor for the parent to fail to sign the affidavit by the deadline if the request is made on or after the 15th anniversary of the date of birth.

C.S.H.B. 2794 amends the Government Code to make nonsubstantive and conforming changes.

EFFECTIVE DATE

September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2794 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

No equivalent provision.

No equivalent provision.

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 25.0021(b), Government Code, is amended to read as follows:

(b) A statutory probate court as that term is defined in Section 22.007, Estates [~~3(ii), Texas Probate~~] Code, has:

(1) the general jurisdiction of a probate court as provided by the Estates [~~Texas Probate~~] Code; and

(2) the jurisdiction provided by law for a county court to hear and determine actions, cases, matters, or proceedings instituted under:

(A) Section 166.046, [~~192.027,~~] 193.007, 552.015, 552.019, 711.004, or 714.003, Health and Safety Code;

(B) Chapter 462, Health and Safety Code; or

(C) Subtitle C or D, Title 7, Health and Safety Code.

SECTION 2. Section 192.026(b), Health and Safety Code, is amended to read as follows:

(b) On the state registrar's refusal to register a certificate under Subsection (a), the state registrar shall:

(1) furnish the applicant a statement of the reasons for the refusal; and

(2) advise the applicant of the right to

SECTION 1. Section 192.027(a), Health and Safety Code, is amended to read as follows:

(a) If a delayed birth certificate is not accepted for registration by the state registrar, the person may file a petition in the county probate court of the county in which the birth occurred, or in the county probate court of the county in which the person resides, for an order establishing a record of the person's date of birth, place of birth, and parentage.

No equivalent provision.

No equivalent provision.

SECTION 2. Subchapter B, Chapter 192, Health and Safety Code, is amended by adding Sections 192.028 and 192.029 to read as follows:

Sec. 192.028. APPOINTMENT OF ATTORNEY AD LITEM. A judge of a

appeal to the district [county] court with jurisdiction over [for probate matters of] the county in which the birth occurred, or in the district court with jurisdiction over the county in which the person resides, as provided by Section 192.027.

SECTION 3. Section 192.027, Health and Safety Code, is amended by amending Subsections (a) and (d) and adding Subsection (b-1) to read as follows:

(a) If a delayed birth certificate is not accepted for registration by the state registrar, the person may file a petition in the district [county probate] court with jurisdiction over [of] the county in which the birth occurred, or in the district court with jurisdiction over the county in which the person resides, for an order establishing a record of the person's date of birth, place of birth, and parentage.

(b-1) The petition must include:

(1) the name and place of residence of the petitioner;

(2) whether the petitioner has been the subject of a final felony conviction;

(3) whether the petitioner is subject to the registration requirements of Chapter 62, Code of Criminal Procedure; and

(4) a legible and complete set of the petitioner's fingerprints on a fingerprint card format acceptable to the Department of Public Safety and the Federal Bureau of Investigation.

(d) If, after a hearing, the court finds from the evidence submitted to the registrar and any other relevant evidence presented by the person that the person was born in this state, the court shall:

(1) make findings as to the person's date and place of birth and parentage;

(2) make other findings required by the case; and

(3) enter an order on a form prescribed and furnished by the department to establish a record of birth.

SECTION 4. Subchapter B, Chapter 192, Health and Safety Code, is amended by adding Sections 192.028 and 192.029 to read as follows:

Sec. 192.028. APPOINTMENT OF ATTORNEY AD LITEM. A judge of a

county probate court may appoint an attorney ad litem in a proceeding under Section 192.027 to represent the interests of the person seeking the delayed birth certificate.

Sec. 192.029. REFUSAL TO SIGN AFFIDAVIT OF PERSONAL KNOWLEDGE.

SECTION 3. This Act takes effect September 1, 2015.

district court may appoint an attorney ad litem in a proceeding under Section 192.027 to represent the interests of the person seeking the delayed birth certificate.

Sec. 192.029. REFUSAL TO SIGN AFFIDAVIT OF PERSONAL KNOWLEDGE.

SECTION 5. Same as introduced version.