

SUBJECT: Changes affecting the termination of the parent-child relationship

COMMITTEE: Juvenile Justice and Family Issues — committee substitute recommended

VOTE: 6 ayes — Goodman, Cook, Brady, De La Garza, Naishtat, Puente
0 nays
3 absent — H. Cuellar, Van de Putte, Williamson

SENATE VOTE: On final passage, March 1 - voice vote

WITNESSES: For — Richard La Vallo, Advocacy Inc., John J. Sampson.
Against — Jack Tucker, Texas Fathers Alliance

BACKGROUND: Family Code sec. 161.001, as added by HB 655 by Goodman, the Family Code recodification enacted earlier this session, allows a court to terminate a parent or child relationship if the court finds certain listed conduct by a parent that leads the court to believe that termination of the parent-child relationship would be in the child's best interest.

DIGEST: CSSB 338 would authorize a court to terminate the parent-child relationship if the court by clear and convincing evidence found that the parent had constructively abandoned a child who had been in the permanent or temporary managing conservatorship of the Department of Protective and Regulatory Services (PRS) or an authorized agency for at least one year. The department or authorized agency would have to show that during that time:

- "reasonable efforts" were made to return the child to the parent;
- the parent had not visited or maintained contact with the child; and
- the parent had demonstrated an inability to provide a safe environment for the child.

CSHB 338 would specify that the standard of proof required regarding parental contact needed before a court could order involuntary termination of the parent-child relationship under Family Code sec. 161.001 would be clear and convincing evidence.

The bill would take effect September 1, 1995.

**SUPPORTERS
SAY:**

The existing grounds for terminating parental rights do not apply to parental acts and omissions occurring after a child's placement in foster care. Often, children languish in temporary foster care because their parents do not make any substantial effort to remedy the conditions that led to the children's original placement in foster care.

SB 338 would provide an additional tool for the courts to get foster children into permanent homes where they can be nurtured and grow. This would truly be in the best interest of a child whose parents have not attempted to maintain contact with the child and have demonstrated an inability to provide the child with a safe environment, and when PRS has made reasonable efforts to reunite the child with the parent.

Changing the standard of proof of parental misconduct to "clear and convincing evidence" would ensure that parental rights are not terminated unless the court can be certain by the evidence presented that termination is an appropriate remedy in the best interest of the child.

SB 338 is based on a Texas Performance Review recommendation that proposed termination of parental rights one year after a child is removed from the home if the parent refused to follow a court order. The recommendation anticipated that such a change in the Family Code would save money by reducing foster care for children who have no hope of reuniting with their parents

**OPPONENTS
SAY:**

The one-year time period after which a court could involuntarily terminate the parent-child relationship would not give parents adequate time to deal with the issues that led their children to be taken away in the first place. Parents often need closer to 18 months to obtain needed services to improve their lives and to yield positive results so that they can be reunited permanently with their children.

The "reasonable efforts" provision would offer only lip service to the important role that PRS should play in providing the necessary assistance to parents in order to ensure that they can be reunited permanently with their children.

NOTES:

The Legislative Budget Board estimates that over the next five fiscal years, the state would save \$541,000 in each year as a result of reduced foster care costs effected by the bill. PRS indicates the savings to be \$740,744 for the fiscal 1996-97 biennium due to a more favorable federal matching ratio for foster care payments.

The committee substitute added the change in the burden-of-proof requirement.