

- SUBJECT:** Parental education and family stabilization courses for certain parties
- COMMITTEE:** Juvenile Justice and Family Issues — committee substitute recommended
- VOTE:** 9 ayes — Goodman, Pickett, Isett, P. King, Morrison, Naishtat, A. Reyna, E. Reyna, Truitt
- 0 nays
- WITNESSES:** (*On original bill:*)  
For — Robert L. Green, Jr., Texas Fathers Alliance; Terry Hargrave, Chris Shields, Susan Speight, Texas Association for Marriage and Family Therapy; Susan Levin; Tom Milholland
- Against — None
- BACKGROUND:** Current law allows a court to order parties to a divorce suit to attend counseling. The counselor must prepare a report for the court that gives an opinion on whether there is a reasonable expectation of reconciliation between the parties and whether further counseling would be beneficial. The court may order up to 60 days of additional counseling if the court believes there is a reasonable expectation of reconciliation. Counseling for parties who have children under 18 must include counseling on the impact of divorce on children. No counseling provision exists specifically for suits affecting the parent-child relationship.
- Several courts across the state, particularly Dallas family courts, require counseling in all divorce suits.
- Courts also may require counseling as a condition of community supervision for parties who have violated child-support or custody orders. The required counseling may cover financial planning, budget management, alcohol or drug abuse, or other matters that have resulted in violation of the order.
- DIGEST:** CSHB 2441 would amend the Family Code to allow a court to order parties to a suit affecting the parent-child relationship to attend a parent education and family stabilization course if the court determined that the course would be in the best interests of the child. This course could be required for parties to an

action to modify an existing child-possession or access order. A court could not order parties to attend a course that they could not afford, but the court could order parties to attend a free or sliding-fee-scale course if such a course was available.

A court could not require the parties to a suit to take the course together. A court could prohibit the parties from taking the course together if there was a history of family violence.

The course would have to be at least four hours long and include information on the following issues:

- ! the emotional effects of divorce on parents;
- ! the emotional and behavioral reactions to divorce by young children and adolescents;
- ! parenting issues relating to the concerns and needs of children at different development stages;
- ! stress indicators in young children and adolescents;
- ! conflict management;
- ! family stabilization through development of a coparenting relationship;
- ! the financial responsibilities of parenting;
- ! family violence, spousal abuse, and child abuse and neglect; and
- ! the availability of community services and resources.

The course could not be designed to offer individual mental health therapy or individual legal advice. Information and statements obtained in courses could not be used in any legal proceeding. Reports resulting from participation in courses would become a part of the record in a legal suit only if both parties stipulated to its inclusion in writing.

The course provider could be a mental health professional with a master's degree or greater in family therapy or a program counselor affiliated with a church or religious institution. If neither of these providers was available, the county clerk could designate a provider, including a properly trained school counselor or a person trained in marriage and family therapy. The clerk also could establish a registry of available course providers with notations for free or sliding-fee-scale courses.

The course could consist of personal instruction, videotape instruction, electronic medium instruction, or a combination of any of those methods. Upon completion of the course, the provider would issue a certificate to the participant that listed the names of the participant and the provider, the date of completion, and the medium used to provide the course.

If a party refused to attend a required course, the court could not delay rendering a judgment in the suit affecting the parent-child relationship. However, the court could use contempt powers or other legal sanctions to punish a party who did not attend court-ordered counseling.

CSHB 2441 also would add conflict resolution and parenting skills to the counseling subjects that a court could require as a condition of community supervision for parties who violated child-support or custody orders.

This bill would take effect September 1, 1999, and would apply to suits and motions filed on or after that date.

**SUPPORTERS  
SAY:**

Studies consistently show that children suffer long-lasting negative effects when their parents divorce. Many parents become too involved in their own conflict to realize the impact that their actions are having on their children. Parent education and family stabilization courses would educate parties to a divorce about the repercussions of their choices and would decrease the incidence of selfish or destructive behavior in divorce litigation.

CSHB 2441 has been written to address the concerns of potential critics. The judge could not require both parties to attend the course if there was a history of family violence. Both religious and secular organizations could provide the courses. The judge could not require parties to attend courses they could not afford, and the use of free or sliding-fee-scale courses would be encouraged. To limit the risk of practicing law or medicine without a license, course providers could not offer mental health therapy or legal advice.

It is always difficult when the state becomes involved in personal family decisions. The tremendous toll taken on Texas children by divorce and the conflict that too often accompanies it requires the state to take some action to protect those children by educating their parents about the problems that can be caused by selfishness and anger in divorce.

Requiring parental education and family stabilization courses would be the least restrictive means to limit the damage done by divorce. CSHB 2441 represents an alternative to other proposals that would restrict access to divorce on certain grounds or that would ban no-fault divorce altogether. Providing information to divorcing parents involves less state intrusion into private matters than forcing married couples to stay together when they no longer want to be married and there is no hope of reconciliation.

The current law that allows courts to order counseling for divorcing parents of children under 18 is too vague. It provides no description of what the counseling should include. If it is ordered at all, the counseling can be inconsistent and ineffective. CSHB 2441 would create a framework for courts and course providers that would make counseling easier to order and more available.

OPPONENTS  
SAY:

The state should not become involved in personal family decisions. It is impossible to mandate the content of a parental education or family stabilization course without offending individual rights in a society where people hold so many different values and beliefs. A course on the scientifically substantiated effects of divorce and family violence might be acceptable, but the state should not endorse certain lifestyles or family choices to remedy those effects.

Courts already can order counseling. The current law is better because it allows the court to tailor the ordered counseling to the specific needs of the parties in the divorce. CSHB 2441 would create a uniform course that might not fit the needs of every case.

OTHER  
OPPONENTS  
SAY:

Counseling would remain inconsistent under CSHB 2441 because it would not be mandatory for all parties to suits affecting the parent-child relationship. If the state really wants to protect children and limit divisiveness in divorce actions, it should require all divorcing parents to attend parental education and family stabilization courses.

NOTES:

The original bill would have required parents of children under 18 in divorce actions to attend courses unless the court waived the requirement for good cause. It also would have required the court clerk to distribute an anonymous questionnaire to parties in a divorce suit. The questionnaire would have been

used by the Texas Tech University human development and family studies department.

The companion bill, SB 1015 by Wentworth, has been referred to the Senate Jurisprudence Committee.

A related bill, HB 2442 by Goodman, which would encourage premarital education courses for marriage license applicants, allow county clerks to distribute a premarital education handbook, and create a family trust fund for research and education projects on family issues, passed the House on April 27 and has been referred to the Senate Jurisprudence Committee.