

BILL ANALYSIS

Senate Research Center

S.B. 208
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Jurisprudence
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As Filed

DIGEST

Currently, a court is prohibited from awarding custody of a child when there is evidence that a parent on relative neglected, physically abused, or sexually abused a child. Instead, the court must appoint custody to the nonviolent parent. However, on several noted occasions, judges have awarded custody to a violent parent erroneously, assuming a violent act against a family members would not manifest itself against the child. Changing the language of the current law would create stricter guidelines in awarding child custody to a violent parent.

S.B. 208 would require, rather than authorize, a judge to not award custody to a person if credible evidence exists of child neglect or physical or sexual abuse by one parent directed against the other parent, spouse, or child, unless the person fulfills a range of conditions and the court takes certain steps to ensure the welfare of the child.

PURPOSE

As proposed, S.B. 208 orders courts to consider a history of family violence in child custody cases.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 153.001(a), Family Code, to provide that the public policy of the state is to provide a safe, stable, and nonviolent environment for the child, rather than a stable environment.

SECTION 2. Amends Section 153.004, Family Code, by amending Subsections (b) and (c) and by adding Subsection (d), to provide that the court shall not, rather than may not, appoint joint managing conservators in child abuse cases when one of the parents has a history of child abuse. Prohibits the court from appointing custody of a child to a party with a history of committing Section 71.004, Family Code, family violence, unless the court finds that certain conditions exist. Deletes a requirement that the court consider the commission of family violence to determine custody to a parent.

SECTION 3. Effective date: September 1, 1999.
Makes application of the Act retroactive.

SECTION 4. Emergency clause.