

BILL ANALYSIS

Senate Research Center
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S.B. 950
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 950 seeks to provide a court greater latitude to take into account the best interest of the child during a custody dispute. The current statute assumes that unsupervised visitation with a child is in the child's best interest unless there is credible evidence that the parent has a demonstrated pattern or history of neglect, physical abuse, or sexual abuse against the child or the spouse. The statute does not allow the judge to consider the risk posed by other people who are likely to reside in the house and have unsupervised access to the child. This bill extends the current rebuttable presumption regarding unsupervised visitation and the risk posed by an abusive parent to other people with a history or pattern of physical or sexual abuse and who are likely to have unsupervised access to the child.

If a couple has gone through a mediated settlement, the current statute only allows a court to refuse to enter judgment if one of the parties was a victim of family violence and those circumstances impaired his ability to make decisions. The court is not allowed in statute to take into account any other factors. S.B. 950 allows a court to decline judgment on a mediated settlement agreement if the agreement would allow a person who is required to register as a sex offender or who has a history or pattern of physical or sexual abuse directed against any person to live with the child or have unsupervised access to the child.

S.B. 950 does not change the statute regarding modifications to a mediated settlement agreement that has been approved by the court, and it does not prohibit the court from entering judgment on a mediated settlement agreement despite the past history of anyone in the household.

As proposed, S.B. 950 amends current law relating to certain procedural measures in a suit affecting a parent-child relationship to protect a child against child neglect or physical or sexual abuse.

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 Sections 153.004(e) and (f), Family Code, as follows:

(e) Provides that it is a rebuttable presumption that it is not in the best interest of a child for a parent to have unsupervised visitation with the child if credible evidence is presented of a history or pattern of past or present child neglect or physical or sexual abuse by:

(1) Creates this subdivision from existing text; or

(2) any person who resides in that parent's household or who by virtue of the person's relationship with that parent is otherwise likely to have unsupervised access to the child during that parent's periods of possession of or access to the child, directed against any person.

(f) Requires the court to consider whether a protective order was rendered under Chapter 85 (Issuance of Protective Order), Title 4, against the parent or other person during the

two-year period preceding the filing of the suit or during the pendency of the suit in determining under this section whether there is credible evidence of a history or pattern of past or present child neglect or physical or sexual abuse by a parent or other person, as applicable, rather than by a parent directed against the other parent, a spouse, or a child.

SECTION 2. Amends Section 153.0071(e-1), Family Code, as follows:

(e-1) Authorizes a court, notwithstanding Subsections (d) and (e), to decline to enter a judgment on a mediated settlement agreement if the court finds:

(1) Creates this subdivision from existing text:

(A) Redesignates existing Subdivision (1) as Paragraph (A). Creates this paragraph from existing text; or

(B) the agreement would permit a person who is subject to registration under Chapter 62 (Sex Offender Registration Program), Code of Criminal Procedure, or who otherwise has a history or pattern of past or present physical or sexual abuse directed against any person to:

(i) reside in the same household as the child; or

(ii) otherwise have unsupervised access to the child; and

(2) that the agreement is not in the child's best interest.

SECTION 3. Makes application of this Act prospective.

SECTION 4. Provides that the enactment of this Act constitutes a material and substantial change of circumstances sufficient to warrant modification of a court order or portion of a decree that provides for the possession of or access to a child rendered before the effective date of this Act.

SECTION 5. Effective date: September 1, 2015.