

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 454
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State Affairs
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

This bill would ensure judges are informed of any civil protective order issued to protect a party or child in a divorce or any suit affecting the parent-child relationship.

Section 6.405, Family Code, currently requires divorce pleadings to include a copy of a current family violence protective order (PO).

Although current law requires the attachment of family violence POs, it excludes all other POs issued based on sexual assault or abuse, stalking, or human trafficking and magistrates' orders for emergency protection. As a result, judges may lack sufficient information about dangers to parties and their children. This puts survivors of childhood sexual abuse, sexual assault, domestic violence, and stalking at risk.

This bill requires all divorce or suits affecting the parent-child relationship pleadings to include copies of any PO currently in effect to protect a party or a party's child.

C.S.S.B. 454 exempts the Attorney General's Office as a party required to comply with the pleadings. The Attorney General's Office in many cases does not have access to copies of such orders and this requirement could burden the pleading process.

C.S.S.B. amends current law relating to certain protective orders in a suit for dissolution of marriage or a suit affecting the parent-child relationship, including a proceeding to adjudicate parentage.

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 Section 6.405, Family Code, as follows:

Sec. 6.405. New heading: PROTECTIVE ORDER AND RELATED ORDERS. (a) Requires the petition in a suit for dissolution of a marriage to state whether, in regard to a party to the suit or a child of a party to the suit, there is in effect a protective order under Title 4 (Protective Orders and Family Violence), a protective order under Chapter 7A (Protective Order for Victims of Sexual Assault or Abuse, Stalking, or Trafficking), Code of Criminal Procedure, or an order for emergency protection under Article 17.292 (Magistrate's Order for Emergency Protection), Code of Criminal Procedure, or an application for an order is pending. Makes nonsubstantive changes.

(b) Requires the petitioner to attach to the petition a copy of each order described by Subsection (a)(1), rather than a copy of each protective order issued under Title 4, in which a party to the suit or the child of a party to the suit was the applicant or victim of the conduct alleged in the application or order and the other party was the respondent or defendant of an action regarding the conduct alleged

in the application or order without regard to the date of the order. Makes conforming and nonsubstantive changes.

SECTION 2. Amends Section 102.008, Family Code, by amending Subsection (b) and adding Subsections (c) and (d), as follows:

(b) Requires the petition to include a statement as to whether, in regard to a party to the suit or a child of a party to the suit, there is in effect certain orders or an application for certain orders. Makes nonsubstantive changes.

(c) Requires the petitioner to attach a copy of each order in which a party to the suit or a child of a party to the suit was the applicant or victim of the conduct alleged in the application or order, and the other party was the respondent or defendant of an action regarding the conduct alleged in the application or order, without regard to the date. Requires a petition to state, if a copy of the order is not available at the time of filing, that a copy of the order will be filed with the court before any hearing.

(d) Provides that, notwithstanding any other provision of this section, if the Title IV-D agency files a petition in a suit affecting the parent-child relationship, the agency is not required to include in the petition the statement described by Subsection (b)(11) or attach copies of the documentation described by Subsection (c).

SECTION 3. Amends Subchapter G, Chapter 160, Family Code, by adding Section 160.6035, as follows:

Sec. 160.6035. CONTENTS OF PETITION; STATEMENT RELATING TO CERTAIN PROTECTIVE ORDERS REQUIRED. (a) Requires the petition in a proceeding to adjudicate parentage to include a statement as to whether, in regard to a party to the proceeding or a child of a party to the proceeding, there is in effect certain orders or an application for certain orders is pending.

(b) Requires the petitioner to attach a copy of each order in which a party to the proceeding or a child of a party to the proceeding was the applicant or victim of the conduct alleged in the application or order and the other party was the respondent or defendant of an action regarding the conduct alleged in the application or order, without regard to the order's date. Requires a petition to state, if a copy of the order is not available at the time of filing, that a copy of the order will be filed with the court before any hearing.

(c) Provides that, notwithstanding any other provision of this section, if the Title IV-D agency files a petition in a proceeding to adjudicate parentage, the agency is not required to include in the petition the statement described by Subsection (a) or attach copies of the documentation described by Subsection (b).

SECTION 4. Makes application of this Act prospective.

SECTION 5. Effective date: September 1, 2017.