

BILL ANALYSIS

Senate Research Center

S.B. 738
By: Kolkhorst
Health & Human Services
6/1/2017
Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 738 requires all cases regarding the same children and same Child Protective Services (CPS) incident to be heard by the same judge/court.

S.B. 738 seeks to enact a statute that would require the Department of Family and Protective Services (DFPS) to file a suit affecting the parent-child relationship in a court of continuing, exclusive jurisdiction (CCJ) of a child named in the petition. S.B. 738 would also require that, in those cases where more than one court has CCJ of more than one child named in the petition, DFPS shall file in the court that most recently exercised CCJ of a child named in the petition.

The purpose of S.B. 738 is to keep cases relating to a single child in the same court, and to keep cases related to a set of siblings in the same court. (Original Author's / Sponsor's Statement of Intent)

S.B. 738 amends current law relating to the transfer of certain suits affecting the parent-child relationship.

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 155.201, Family Code, by adding Subsection (d), as follows:

(d) Requires the court of continuing, exclusive jurisdiction to, on receiving notice that a court exercising jurisdiction under Chapter 262 (Procedures in Suit by Governmental Entity to Protect Health and Safety of Child) has ordered the transfer of a suit under Section 262.203(a)(2), pursuant to the requirements of Section 155.204(i), transfer the proceedings to the court in which the suit under Chapter 262 is pending, within the time required by Subsection 155.207(a) (relating to the requirement of a clerk of the court transferring a proceeding, not later than the 10th working day after the date an order of transfer is signed, to send to the proper court in the county to which transfer is made, certain copies and pleadings).

SECTION 2. Amends Section 155.204(i), Family Code, as follows:

(i) Requires the Department of Family and Protective Services, rather than authorizes a party, if a transfer order has been signed by a court exercising jurisdiction under Chapter 262, to file the transfer order with the clerk of the court of continuing, exclusive jurisdiction. Requires the clerk of the court of continuing, exclusive jurisdiction, on receipt and without a hearing or further order from the court of continuing, exclusive jurisdiction, to transfer the files as provided by this subchapter (Transfer of Continuing, Exclusive Jurisdiction) within the time required by Subsection 155.207(a).

SECTION 3. Amends Section 262.203(a), Family Code, as follows:

(a) Requires the court that rendered the temporary order to, on the motion of a party or the court's own motion, if applicable, in accordance with procedures provided by Chapter 155 (Continuing, Exclusive Jurisdiction; Transfer):

(1) transfer the suit to the court of continuing, exclusive jurisdiction, if any, within the time required by Subsection 155.207(a), if the court finds that the transfer is necessary for the convenience of the parties and in the best interest of the child;

(2) order transfer of the suit from the court of continuing, exclusive jurisdiction. Deletes existing text requiring the court, if grounds exist for mandatory transfer from the court of continuing, exclusive jurisdiction under Section 155.201 (Mandatory Transfer) to order transfer of the suit from that court; or

(3) makes no changes to this subdivision.

SECTION 4. Makes application of this Act prospective.

SECTION 5. Provides that this Act takes effect only if a specific appropriation for the implementation of the Act is provided in a general appropriations act of the 85th Legislature.

SECTION 6. Effective date: September 1, 2017.