

1 AN ACT

2 relating to suits affecting the parent-child relationship,
3 including the powers and duties of domestic relations offices and
4 the conducting of social studies.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Subchapter D, Chapter 107, Family Code, is
7 amended by adding Section 107.0501 to read as follows:

8 Sec. 107.0501. DEFINITIONS. In this subchapter:

9 (1) "Social study" means an evaluative process through
10 which information and recommendations regarding adoption of a
11 child, conservatorship of a child, or possession of or access to a
12 child may be made to a court, the parties, and the parties'
13 attorneys. The term does not include services provided in
14 accordance with the Interstate Compact on the Placement of
15 Children adopted under Subchapter B, Chapter 162, or an evaluation
16 conducted in accordance with Section 262.114 by an employee of or
17 contractor with the Department of Family and Protective Services.

18 (2) "Social study evaluator" means an individual who
19 conducts a social study under this subchapter.

20 SECTION 2. Section 107.051, Family Code, is amended to read
21 as follows:

22 Sec. 107.051. ORDER FOR SOCIAL STUDY. (a) The court may
23 order the preparation of a social study into the circumstances and
24 condition of:

1 (1) a ~~the~~ child who is the subject of a suit or a
2 party to a suit; and

3 (2) [of] the home of any person requesting ~~managing~~
4 conservatorship of, ~~or~~ possession of, or access to a ~~the~~ child.

5 (b) The social study may be made by a private entity, a
6 person appointed by the court, a domestic relations office, or a
7 state agency, including the Department of Family and Protective
8 ~~and Regulatory~~ Services if the department is a party to the suit.

9 (c) In a suit in which adoption is requested or
10 conservatorship of, possession of, or access to a ~~the~~ child is an
11 issue and in which a social study has been ordered and the
12 Department of Family and Protective ~~and Regulatory~~ Services is
13 not a party, the court shall appoint a private agency, ~~or~~ another
14 person, or ~~including~~ a domestic relations office~~r~~ to conduct
15 the social study.

16 (d) Except as provided by Section 107.0511(b), each
17 individual who conducts a social study must be qualified under
18 Section 107.0511.

19 SECTION 3. Subchapter D, Chapter 107, Family Code, is
20 amended by amending Section 107.0511 and adding Sections 107.0512,
21 107.0513, 107.0514, 107.0515, and 107.0519 to read as follows:

22 Sec. 107.0511. SOCIAL STUDY EVALUATOR: MINIMUM
23 QUALIFICATIONS. (a) In this section:

24 (1) "Full-time experience" means a period during which
25 an individual works at least 30 hours per week.

26 (2) "Human services field of study" means a field of
27 study designed to prepare an individual in the disciplined

1 application of counseling, family therapy, psychology, or social
2 work values, principles, and methods.

3 (b) The minimum qualifications prescribed by this section
4 do not apply to an individual conducting a social study:

5 (1) in connection with a suit pending before a court
6 located in a county with a population of less than 500,000;

7 (2) in connection with an adoption governed by rules
8 adopted under Section 107.0519(a);

9 (3) as an employee or other authorized representative
10 of a licensed child-placing agency; or

11 (4) as an employee or other authorized representative
12 of the Department of Family and Protective Services.

13 (c) The executive commissioner of the Health and Human
14 Services Commission shall adopt rules prescribing the minimum
15 qualifications that an individual described by Subsection (b)(3) or
16 (4) must possess in order to conduct a social study under this
17 subchapter.

18 (d) To be qualified to conduct a social study under this
19 subchapter, an individual must:

20 (1) have a bachelor's degree from an accredited
21 college or university in a human services field of study and a
22 license to practice in this state as a social worker, professional
23 counselor, marriage and family therapist, or psychologist and:

24 (A) have two years of full-time experience or
25 equivalent part-time experience under professional supervision
26 during which the individual performed functions involving the
27 evaluation of physical, intellectual, social, and psychological

1 functioning and needs and the potential of the social and physical
2 environment, both present and prospective, to meet those needs; and

3 (B) have participated in the performance of at
4 least 10 court-ordered social studies under the supervision of an
5 individual qualified under this section;

6 (2) meet the requirements of Subdivision (1)(A) and be
7 practicing under the direct supervision of an individual qualified
8 under this section in order to complete at least 10 court-ordered
9 social studies under supervision; or

10 (3) be employed by a domestic relations office,
11 provided that the individual conducts social studies relating only
12 to families ordered by a court to participate in social studies
13 conducted by the office.

14 (e) If an individual meeting the requirements of this
15 section is not available in the county served by the court, the
16 court may authorize an individual determined by the court to be
17 otherwise qualified to conduct the social study.

18 (f) In addition to the qualifications prescribed by this
19 section, an individual must complete at least eight hours of family
20 violence dynamics training provided by a family violence service
21 provider to be qualified to conduct a social study under this
22 subchapter.

23 Sec. 107.0512. SOCIAL STUDY EVALUATOR: CONFLICTS OF
24 INTEREST AND BIAS. (a) A social study evaluator who has a conflict
25 of interest with any party in a disputed suit or who may be biased on
26 the basis of previous knowledge, other than knowledge obtained in a
27 court-ordered evaluation, shall:

1 (1) decline to conduct a social study for the suit; or
2 (2) disclose any issue or concern to the court before
3 accepting the appointment or assignment.

4 (b) A social study evaluator who has previously conducted a
5 social study for a suit may conduct all subsequent evaluations in
6 the suit unless the court finds that the evaluator is biased.

7 (c) This section does not prohibit a court from appointing
8 an employee of the Department of Family and Protective Services to
9 conduct a social study in a suit in which adoption is requested or
10 possession of or access to a child is an issue and in which the
11 department is a party or has an interest.

12 Sec. 107.0513. GENERAL PROVISIONS APPLICABLE TO CONDUCT OF
13 SOCIAL STUDY AND PREPARATION OF REPORT. (a) Unless otherwise
14 directed by a court or prescribed by a provision of this title, a
15 social study evaluator's actions in conducting a social study shall
16 be in conformance with the professional standard of care applicable
17 to the evaluator's licensure and any administrative rules, ethical
18 standards, or guidelines adopted by the state agency that licenses
19 the evaluator.

20 (b) In addition to the requirements prescribed by this
21 subchapter, a court may impose requirements or adopt local rules
22 applicable to a social study or a social study evaluator.

23 (c) A social study evaluator shall follow evidence-based
24 practice methods and make use of current best evidence in making
25 assessments and recommendations.

26 (d) A social study evaluator shall disclose to each attorney
27 of record any communication regarding a substantive issue between

1 the evaluator and an attorney of record representing a party in a
2 disputed suit. This subsection does not apply to a communication
3 between a social study evaluator and an attorney ad litem or amicus
4 attorney.

5 (e) To the extent possible, a social study evaluator shall
6 verify each statement of fact pertinent to a social study and shall
7 note the sources of verification and information in the report.

8 (f) A social study evaluator shall state the basis for the
9 evaluator's conclusions or recommendations in the report. A social
10 study evaluator who has evaluated only one side of a disputed case
11 shall refrain from making a recommendation regarding
12 conservatorship of a child or possession of or access to a child,
13 but may state whether the party evaluated appears to be suitable for
14 conservatorship.

15 (g) Each social study subject to this subchapter must be
16 conducted in compliance with this subchapter, regardless of whether
17 the study is conducted:

18 (1) by a single social study evaluator or multiple
19 evaluators working separately or together; or

20 (2) within a county served by the court with
21 continuing jurisdiction or at a geographically distant location.

22 (h) A social study report must include the name, license
23 number, and basis for qualification under Section 107.0511 of each
24 social study evaluator who conducted any portion of the social
25 study.

26 Sec. 107.0514. ELEMENTS OF SOCIAL STUDY. (a) The basic
27 elements of a social study under this subchapter consist of:

- 1 (1) a personal interview of each party to the suit;
2 (2) an interview, conducted in a developmentally
3 appropriate manner, of each child at issue in the suit who is at
4 least four years of age;
5 (3) observation of each child at issue in the suit,
6 regardless of the age of the child;
7 (4) the obtaining of information from relevant
8 collateral sources;
9 (5) evaluation of the home environment of each party
10 seeking conservatorship of a child at issue in the suit or
11 possession of or access to the child, unless the condition of the
12 home environment is identified as not being in dispute in the court
13 order requiring the social study;
14 (6) for each individual residing in a residence
15 subject to the social study, consideration of any criminal history
16 information and any contact with the Department of Family and
17 Protective Services or a law enforcement agency regarding abuse or
18 neglect; and
19 (7) assessment of the relationship between each child
20 at issue in the suit and each party seeking possession of or access
21 to the child.
22 (b) The additional elements of a social study under this
23 subchapter consist of:
24 (1) balanced interviews and observation of each child
25 at issue in the suit so that a child who is interviewed or observed
26 while in the care of one party to the suit is also interviewed or
27 observed while in the care of each other party to the suit;

1 (2) an interview of each individual residing in a
2 residence subject to the social study; and

3 (3) evaluation of the home environment of each party
4 seeking conservatorship of a child at issue in the suit or
5 possession of or access to the child, regardless of whether the home
6 environment is in dispute.

7 (c) A social study evaluator may not offer an opinion
8 regarding conservatorship of a child at issue in a suit or
9 possession of or access to the child unless each basic element of a
10 social study under Subsection (a) has been completed. A social
11 study evaluator shall identify in the report any additional element
12 of a social study under Subsection (b) that was not completed and
13 shall explain the reasons that the element was not completed.

14 Sec. 107.0515. REPORTS OF CERTAIN PLACEMENTS FOR ADOPTION.
15 A social study evaluator shall report to the Department of Family
16 and Protective Services any adoptive placement that appears to have
17 been made by someone other than a licensed child-placing agency or
18 the child's parents or managing conservator.

19 Sec. 107.0519. PRE-ADOPTIVE SOCIAL STUDY [HOME SCREENING].
20 (a) This section does not apply to a study prepared by a licensed
21 child-placing agency or the Department of Family and Protective
22 Services. The procedures required in relation to a study prepared
23 by a licensed child-placing agency or the Department of Family and
24 Protective Services are governed by rules adopted by the executive
25 commissioner of the Health and Human Services Commission, including
26 rules adopted under Chapter 42, Human Resources Code [In this
27 section, "department" means the Department of Protective and

1 ~~Regulatory Services~~].

2 (b) A pre-adoptive social study [~~home screening~~] shall be
3 conducted as provided by this section to evaluate each party in a
4 proceeding described by Subsection (c) who requests termination of
5 the parent-child relationship or an adoption.

6 (c) The social study [~~Except for a suit brought by a~~
7 ~~licensed child-placing agency or the department, the home~~
8 ~~screening~~] under this section shall be filed in any suit for:

9 (1) termination of the parent-child relationship in
10 which a person other than a parent may be appointed managing
11 conservator of a child; or

12 (2) an adoption.

13 (d) The social study [~~Other than in a suit in which a~~
14 ~~licensed child-placing agency or the department is appointed~~
15 ~~managing conservator of the child, the home screening~~] under this
16 section must be filed with the court before the court may sign the
17 final order for termination of the parent-child relationship.

18 (e) The costs of a social study [~~home screening~~] in a suit
19 for adoption under this section shall be paid by the prospective
20 adoptive parent.

21 (f) Unless otherwise agreed to by the court, the social
22 study [~~home screening~~] under this section must comply with the
23 minimum requirements for the study [~~screening~~] under rules adopted
24 by the executive commissioner of the Health and Human Services
25 Commission [~~Board of Protective and Regulatory Services~~].

26 (g) In a suit filed after the child begins residence in the
27 prospective adoptive home [~~stepparent adoption~~], the pre-adoptive

1 social study [~~home screening~~] under this section and the
2 post-placement adoptive social study [~~report~~] under Section
3 107.052 may be combined in a single report. Under this subsection,
4 the pre-adoptive social study will be completed after the child is
5 placed in the home.

6 SECTION 4. Section 107.052, Family Code, is amended to read
7 as follows:

8 Sec. 107.052. POST-PLACEMENT ADOPTIVE SOCIAL STUDY AND
9 REPORT. (a) In a proceeding in which a pre-adoptive social study
10 [~~home screening~~] is required by Section 107.0519 [~~107.0511~~] for an
11 adoption, a post-placement adoptive social study [~~report~~] must be
12 conducted and a report filed with the court before the court may
13 render a final order in the adoption.

14 (b) Unless otherwise agreed to by the court, the
15 post-placement adoptive social study [~~report~~] must comply with the
16 minimum requirements for the study [~~report~~] under rules adopted by
17 the executive commissioner of the Health and Human Services
18 Commission [~~Board of Protective and Regulatory Services~~].

19 SECTION 5. Section 107.056, Family Code, is amended to read
20 as follows:

21 Sec. 107.056. PREPARATION FEE. If the court orders a social
22 study to be conducted [~~and a report to be prepared~~], the court shall
23 award the agency or other person a reasonable fee for the
24 preparation of the study that shall be imposed in the form of a
25 money judgment [~~taxed as costs~~] and paid directly to the agency or
26 other person. The person or agency may enforce the judgment [~~order~~]
27 for the fee by any means available under law for civil judgments.

1 SECTION 6. Section 162.003, Family Code, is amended to read
2 as follows:

3 Sec. 162.003. PRE-ADOPTIVE [~~HOME~~—~~SCREENING~~] AND
4 POST-PLACEMENT SOCIAL STUDIES [~~REPORT~~]. In a suit for adoption,
5 [a] pre-adoptive [~~home screening~~] and post-placement social
6 studies [~~report~~] must be conducted as provided in Chapter 107.

7 SECTION 7. Section 203.004(a), Family Code, is amended to
8 read as follows:

9 (a) A domestic relations office may:

10 (1) collect and disburse child support payments that
11 are ordered by a court to be paid through a domestic relations
12 registry;

13 (2) maintain records of payments and disbursements
14 made under Subdivision (1);

15 (3) file a suit, including a suit to:

16 (A) establish paternity;

17 (B) enforce a court order for child support or
18 for possession of and access to a child; and

19 (C) modify or clarify an existing child support
20 order;

21 (4) provide an informal forum in which alternative
22 dispute resolution [+

23 [~~(A) mediation~~] is used to resolve disputes [~~in~~
24 ~~an action~~] under this code [~~Subdivision (3), or~~

25 [~~(B) an agreed repayment schedule for delinquent~~
26 ~~child support is negotiated as an alternative to filing a suit to~~
27 ~~enforce a court order for child support under Subdivision (3)];~~

1 (5) prepare a court-ordered social study under Chapter
2 107;

3 (6) represent a child as an amicus attorney, an
4 attorney ad litem, or a guardian ad litem in a suit in which:

5 (A) termination of the parent-child relationship
6 is sought; or

7 (B) conservatorship of or access to a child is
8 contested;

9 (7) serve as a friend of the court;

10 (8) provide predivorce counseling ordered by a court;

11 (9) provide community supervision services under
12 Chapter 157;

13 (10) provide information to assist a party in
14 understanding, complying with, or enforcing the party's duties and
15 obligations under Subdivision (3);

16 (11) provide, directly or through a contract,
17 visitation services, including supervision of court-ordered
18 visitation, visitation exchange, or other similar services; ~~and~~

19 (12) issue an administrative writ of withholding under
20 Subchapter F, Chapter 158; and

21 (13) provide parenting coordinator services under
22 Chapter 153.

23 SECTION 8. Section 203.005(a), Family Code, is amended to
24 read as follows:

25 (a) The administering entity may authorize a domestic
26 relations office to assess and collect:

27 (1) an initial operations fee not to exceed \$15 to be

1 paid to the domestic relations office on the filing of a suit;

2 (2) in a county that has a child support enforcement
3 cooperative agreement with the Title IV-D agency, an initial child
4 support service fee not to exceed \$36 to be paid to the domestic
5 relations office on the filing of a suit;

6 (3) a reasonable application fee to be paid by an
7 applicant requesting services from the office;

8 (4) a reasonable attorney's fee and court costs
9 incurred or ordered by the court;

10 (5) a monthly service fee not to exceed \$3 to be paid
11 annually in advance by a managing conservator and possessory
12 conservator for whom the domestic relations office provides child
13 support services;

14 (6) community supervision fees as provided by Chapter
15 157 if community supervision officers are employed by the domestic
16 relations office;

17 (7) a reasonable fee for preparation of a
18 court-ordered social study;

19 (8) in a county that provides visitation services
20 under Sections 153.014 and 203.004 a reasonable fee to be paid to
21 the domestic relations office at the time the visitation services
22 are provided; ~~and~~

23 (9) a fee to reimburse the domestic relations office
24 for a fee required to be paid under Section 158.503(d) for filing an
25 administrative writ of withholding;

26 (10) a reasonable fee for parenting coordinator
27 services; and

1 (11) a reasonable fee for alternative dispute
2 resolution services.

3 SECTION 9. Sections 203.007(a) and (b), Family Code, are
4 amended to read as follows:

5 (a) A domestic relations office may obtain the records
6 described by Subsections (b), (c), (d), and (e) that relate to a
7 person who has:

- 8 (1) been ordered to pay child support;
- 9 (2) been designated as a [~~possessory~~] conservator [~~or~~
10 ~~managing conservator~~] of a child;
- 11 (3) been designated to be the father of a child; [~~or~~]
- 12 (4) executed an acknowledgment of paternity;
- 13 (5) court-ordered possession of a child; or
- 14 (6) filed suit to adopt a child.

15 (b) A domestic relations office is entitled to obtain from
16 the Department of Public Safety records that relate to:

- 17 (1) a person's date of birth;
- 18 (2) a person's most recent address;
- 19 (3) a person's current driver's license status;
- 20 (4) motor vehicle accidents involving a person; [~~and~~]
- 21 (5) reported traffic-law violations of which a person
22 has been convicted; and
- 23 (6) a person's criminal history record information.

24 SECTION 10. Section 411.1285(a), Government Code, is
25 amended to read as follows:

26 (a) A domestic relations office created under Chapter 203,
27 Family Code, is entitled to obtain from the department criminal

1 history record information that relates to a person who is a party
2 to a proceeding in which the domestic relations office is providing
3 services permitted under Chapter 203, Family Code [~~has been~~

4 [~~(1) appointed guardian ad litem for a child, or~~

5 [~~(2) ordered to conduct a social study under~~
6 ~~Subchapter D, Chapter 107, Family Code~~].

7 SECTION 11. Notwithstanding Section 107.0511(d)(1)(B),
8 Family Code, as added by this Act, an individual who on or before
9 the effective date of this Act completed at least 10 social studies
10 ordered by a court in suits affecting the parent-child relationship
11 is not required to comply with the supervision requirements imposed
12 by that paragraph to be qualified to conduct a social study under
13 Subchapter D, Chapter 107, Family Code, as amended by this Act.

14 SECTION 12. The changes in law made by this Act to
15 Subchapter D, Chapter 107, Family Code, and Section 162.003, Family
16 Code, apply to a suit affecting the parent-child relationship that
17 is filed on or after the effective date of this Act. A suit
18 affecting the parent-child relationship filed before the effective
19 date of this Act is governed by the law in effect on the date the
20 suit is filed, and the former law is continued in effect for that
21 purpose.

22 SECTION 13. This Act takes effect September 1, 2007.

David Dewhurst

President of the Senate

Jim Caddell

Speaker of the House

I certify that H.B. No. 772 was passed by the House on May 1, 2007, by the following vote: Yeas 147, Nays 0, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 772 on May 27, 2007, by the following vote: Yeas 142, Nays 0, 2 present, not voting.

Robert Haney
Chief Clerk of the House

I certify that H.B. No. 772 was passed by the Senate, with amendments, on May 23, 2007, by the following vote: Yeas 31, Nays 0.

Daisy Spaw
Secretary of the Senate

APPROVED: 15 JUN 07

Date

Rick Perry

Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
6 PM O'CLOCK

JUN 15 2007

Roger Williams
Secretary of State