

AN ACT

relating to child custody evaluations and adoption evaluations conducted and testimony provided in certain suits affecting the parent-child relationship; providing penalties; creating an offense; authorizing fees.

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

ARTICLE 1. CHILD CUSTODY EVALUATION AND ADOPTION EVALUATION

SECTION 1.01. The heading to Chapter 107, Family Code, is amended to read as follows:

CHAPTER 107. SPECIAL APPOINTMENTS, CHILD CUSTODY EVALUATIONS, AND ADOPTION EVALUATIONS [~~SOCIAL STUDIES~~]

SECTION 1.02. The heading to Subchapter D, Chapter 107, Family Code, is amended to read as follows:

SUBCHAPTER D. CHILD CUSTODY EVALUATION [~~SOCIAL STUDY~~]

SECTION 1.03. Section 107.0501, Family Code, is redesignated as Section 107.101, Family Code, and amended to read as follows:

Sec. 107.101 [~~107.0501~~]. DEFINITIONS. In this subchapter:

(1) "Child custody evaluation" [~~"Social study"~~] means an evaluative process ordered by a court in a contested case through which information, opinions, [~~and~~] recommendations, and answers to specific questions asked by the court may be:

(A) made regarding:

(i) [~~adoption of a child,~~] conservatorship

1 of a child, including the terms and conditions of conservatorship;

2 (ii) ~~[or]~~ possession of or access to a
3 child, including the terms and conditions of possession or access;

4 or

5 (iii) any other issue affecting the best
6 interest of a child; and

7 (B) ~~[may be]~~ made to the [a] court, the parties to
8 the suit, [and] the parties' attorneys, and any other person
9 appointed under this chapter by the court in the suit. [The term
10 does not include services provided in accordance with the
11 Interstate Compact on the Placement of Children adopted under
12 Subchapter B, Chapter 162, or an evaluation conducted in accordance
13 with Section 262.114 by an employee of or contractor with the
14 Department of Family and Protective Services.]

15 (2) "Child custody [Social study] evaluator" means an
16 individual who conducts a child custody evaluation [social study]
17 under this subchapter. The term includes a private child custody
18 evaluator.

19 (3) "Department" means the Department of Family and
20 Protective Services.

21 (4) "Person" includes an agency or a domestic
22 relations office.

23 (5) "Private child custody evaluator" means a person
24 conducting a child custody evaluation who is not conducting the
25 evaluation as an employee of or contractor with a domestic
26 relations office.

27 (6) "Supervision" means directing, regularly

1 reviewing, and meeting with a person with respect to the completion
2 of work for which the supervisor is responsible for the outcome.
3 The term does not require the constant physical presence of the
4 person providing supervision and may include telephonic or other
5 electronic communication.

6 SECTION 1.04. Subchapter D, Chapter 107, Family Code, is
7 amended by adding Sections 107.102 and 107.1025 to read as follows:

8 Sec. 107.102. APPLICABILITY. (a) For purposes of this
9 subchapter, a child custody evaluation does not include services
10 provided in accordance with the Interstate Compact on the Placement
11 of Children adopted under Subchapter B, Chapter 162, or an
12 evaluation conducted in accordance with Section 262.114 by an
13 employee of or contractor with the department.

14 (b) The department may not conduct a child custody
15 evaluation.

16 (c) Except as provided by Subsections (a) and (b), this
17 subchapter does not apply to the department or to a suit to which
18 the department is a party.

19 Sec. 107.1025. EFFECT OF MENTAL EXAMINATION. A mental
20 examination described by Rule 204.4, Texas Rules of Civil
21 Procedure, does not by itself satisfy the requirements for a child
22 custody evaluation under this subchapter. A mental examination may
23 be included in the report required under this subchapter and relied
24 on by the child custody evaluator to the extent the evaluator
25 considers appropriate under the circumstances.

26 SECTION 1.05. Section 107.051, Family Code, is redesignated
27 as Section 107.103, Family Code, and amended to read as follows:

1 Sec. 107.103 [~~107.051~~]. ORDER FOR CHILD CUSTODY EVALUATION
2 ~~[SOCIAL STUDY]~~. (a) The court, after notice and hearing or on
3 agreement of the parties, may order the preparation of a child
4 custody evaluation regarding:

5 (1) [~~social study into~~] the circumstances and
6 condition of:

7 (A) [~~(1)~~] a child who is the subject of a suit;

8 (B) [~~or~~] a party to a suit; and

9 (C) [~~(2)~~] the residence [~~home~~] of any person
10 requesting conservatorship of, possession of, or access to a child
11 who is the subject of the suit; and

12 (2) any issue or question relating to the suit at the
13 request of the court before or during the evaluation process.

14 (b) The court may not appoint a child custody evaluator in a
15 suit involving a nonparent seeking conservatorship of a child
16 unless, after notice and hearing or on agreement of the parties, the
17 court makes a specific finding that good cause has been shown for
18 the appointment of a child custody evaluator [~~social study may be~~
19 ~~made by a private entity, a person appointed by the court, a~~
20 ~~domestic relations office, or a state agency, including the~~
21 ~~Department of Family and Protective Services if the department is a~~
22 ~~party to the suit]~~.

23 (c) An order for a child custody evaluation must include:

24 (1) the name of each person who will conduct the
25 evaluation;

26 (2) the purpose of the evaluation; and

27 (3) the specific issues or questions to be addressed

1 in the evaluation [~~In a suit in which adoption is requested or~~
2 ~~conservatorship of, possession of, or access to a child is an issue~~
3 ~~and in which a social study has been ordered and the Department of~~
4 ~~Family and Protective Services is not a party, the court shall~~
5 ~~appoint a private agency, another person, or a domestic relations~~
6 ~~office to conduct the social study~~].

7 (d) Except as provided by Section 107.106 [~~107.0511(b)~~],
8 each individual who conducts a child custody evaluation [~~social~~
9 ~~study~~] must be qualified under Section 107.104 [~~107.0511~~].

10 SECTION 1.06. Section 107.0511, Family Code, is
11 redesignated as Section 107.104, Family Code, and amended to read
12 as follows:

13 Sec. 107.104 [~~107.0511~~]. CHILD CUSTODY [~~SOCIAL STUDY~~]
14 EVALUATOR: MINIMUM QUALIFICATIONS. (a) In this section:

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

17 (2) "Human services field of study" means a field of
18 study designed to prepare an individual in the disciplined
19 application of counseling, family therapy, psychology, or social
20 work values, principles, and methods.

21 (b) [~~The minimum qualifications prescribed by this section~~
22 ~~do not apply to an individual conducting a social study.~~

23 [~~(1) in connection with a suit pending before a court~~
24 ~~located in a county with a population of less than 500,000,~~

25 [~~(2) in connection with an adoption governed by rules~~
26 ~~adopted under Section 107.0519(a),~~

27 [~~(3) as an employee or other authorized representative~~

1 ~~of a licensed child-placing agency; or~~

2 ~~[(4) as an employee or other authorized representative~~
3 ~~of the Department of Family and Protective Services.]~~

4 ~~[(c) The executive commissioner of the Health and Human~~
5 ~~Services Commission shall adopt rules prescribing the minimum~~
6 ~~qualifications that an individual described by Subsection (b)(3) or~~
7 ~~(4) must possess in order to conduct a social study under this~~
8 ~~subchapter.]~~

9 ~~[(d)]~~ To be qualified to conduct a child custody evaluation
10 ~~[social study under this subchapter]~~, an individual must:

11 (1) have at least a master's ~~[bachelor's]~~ degree from
12 an accredited college or university in a human services field of
13 study and a license to practice in this state as a social worker,
14 professional counselor, marriage and family therapist, or
15 psychologist, or have a license to practice medicine in this state
16 and a board certification in psychiatry and:

17 (A) after completing any degree required by this
18 subdivision, have two years of full-time experience or equivalent
19 part-time experience under professional supervision during which
20 the individual performed functions involving the evaluation of
21 physical, intellectual, social, and psychological functioning and
22 needs and developed an understanding ~~[the potential]~~ of the social
23 and physical environment, both present and prospective, to meet
24 those needs; and

25 (B) after obtaining a license required by this
26 subdivision, have performed ~~[participated in the performance of]~~ at
27 least 10 court-ordered child custody evaluations ~~[social studies]~~

1 under the supervision of an individual qualified under this
2 section;

3 (2) meet the requirements of Subdivision (1)(A) and be
4 practicing under the direct supervision of an individual qualified
5 under this section in order to complete at least 10 court-ordered
6 child custody evaluations [~~social studies~~] under supervision; or

7 (3) be employed by or under contract with a domestic
8 relations office, provided that the individual conducts child
9 custody evaluations [~~social studies~~] relating only to families
10 ordered by a court to participate in child custody evaluations
11 [~~social studies~~] conducted by the domestic relations office.

12 (c) Notwithstanding Subsections (b)(1) and (2), an
13 individual with a doctoral degree and who holds a license in a human
14 services field of study is qualified to conduct a child custody
15 evaluation if the individual has completed a number of hours of
16 professional development coursework and practice experience
17 directly related to the performance of child custody evaluations as
18 described by this chapter, satisfactory to the licensing agency
19 that issues the individual's license.

20 (d) The licensing agency that issues a license to an
21 individual described by Subsection (c) may determine by rule that
22 internships, practicums, and other professional preparatory
23 activities completed by the individual during the course of
24 achieving the person's doctoral degree satisfy the requirements of
25 Subsection (c) in whole or in part.

26 (e) [~~If an individual meeting the requirements of this~~
27 ~~section is not available in the county served by the court, the~~

1 ~~court may authorize an individual determined by the court to be~~
2 ~~otherwise qualified to conduct the social study.~~

3 [~~(f)~~] In addition to the qualifications prescribed by this
4 section, an individual must complete at least eight hours of family
5 violence dynamics training provided by a family violence service
6 provider to be qualified to conduct a child custody evaluation
7 [~~social study~~] under this subchapter.

8 [~~(g)~~] ~~The minimum qualifications prescribed by this section~~
9 ~~do not apply to an individual who, before September 1, 2007:~~

10 [~~(1)~~] ~~lived in a county that has a population of 500,000~~
11 ~~or more and is adjacent to two or more counties each of which has a~~
12 ~~population of 50,000 or more;~~

13 [~~(2)~~] ~~received a four-year degree from an accredited~~
14 ~~institution of higher education;~~

15 [~~(3)~~] ~~worked as a child protective services~~
16 ~~investigator for the Department of Family and Protective Services~~
17 ~~for at least four years;~~

18 [~~(4)~~] ~~worked as a community supervision and corrections~~
19 ~~department officer; and~~

20 [~~(5)~~] ~~conducted at least 100 social studies in the~~
21 ~~previous five years.~~

22 [~~(h)~~] ~~A person described by Subsection (g) who performs a~~
23 ~~social study must:~~

24 [~~(1)~~] ~~complete at least eight hours of family violence~~
25 ~~dynamics training provided by a family violence service provider;~~
26 ~~and~~

27 [~~(2)~~] ~~participate annually in at least 15 hours of~~

1 ~~continuing education for child custody evaluators that meets the~~
2 ~~Model Standards of Practice for Child Custody Evaluation adopted by~~
3 ~~the Association of Family and Conciliation Courts as those~~
4 ~~standards existed May 1, 2009, or a later version of those standards~~
5 ~~if adopted by rule of the executive commissioner of the Health and~~
6 ~~Human Services Commission.~~

7 ~~[(i) Subsections (g) and (h) and this subsection expire~~
8 ~~September 1, 2017.]~~

9 SECTION 1.07. Subchapter D, Chapter 107, Family Code, is
10 amended by adding Sections 107.105 and 107.106 to read as follows:

11 Sec. 107.105. CHILD CUSTODY EVALUATION: SPECIALIZED
12 TRAINING REQUIRED. (a) The court shall determine whether the
13 qualifications of a child custody evaluator satisfy the
14 requirements of this subchapter.

15 (b) A child custody evaluator must demonstrate, if
16 requested, appropriate knowledge and competence in child custody
17 evaluation services consistent with professional models,
18 standards, and guidelines.

19 Sec. 107.106. EXCEPTION TO QUALIFICATIONS REQUIRED TO
20 CONDUCT CHILD CUSTODY EVALUATION. (a) In a county with a
21 population of less than 500,000, if a court finds that an individual
22 who meets the requirements of Section 107.104 is not available in
23 the county to conduct a child custody evaluation in a timely manner,
24 the court, after notice and hearing or on agreement of the parties,
25 may appoint an individual the court determines to be otherwise
26 qualified to conduct the evaluation.

27 (b) An individual appointed under this section shall comply

1 with all provisions of this subchapter, other than Section 107.104.

2 SECTION 1.08. Section 107.0512, Family Code, is
3 redesignated as Section 107.107, Family Code, and amended to read
4 as follows:

5 Sec. 107.107 [107.0512]. CHILD CUSTODY [SOCIAL STUDY]
6 EVALUATOR: CONFLICTS OF INTEREST AND BIAS. (a) Before accepting
7 appointment as a child custody [A social study] evaluator in a suit,
8 a person must disclose to the court, each attorney for a party to
9 the suit, any attorney for a child who is the subject of the suit,
10 and any party to the suit who does not have an attorney:

11 (1) any [who has a] conflict of interest that the
12 person believes the person has with any party to the [in a disputed]
13 suit or a child who is the subject of the suit;

14 (2) any [who may be biased on the basis of] previous
15 knowledge that the person has of a party to the suit or a child who
16 is the subject of the suit, other than knowledge obtained in a
17 court-ordered evaluation;

18 (3) any pecuniary relationship that the person
19 believes the person has with an attorney in the suit;

20 (4) any relationship of confidence or trust that the
21 person believes the person has with an attorney in the suit; and

22 (5) any other information relating to the person's
23 relationship with an attorney in the suit that a reasonable,
24 prudent person would believe would affect the ability of the person
25 to act impartially in conducting a child custody evaluation~~;~~
26 ~~shall:~~

27 ~~[(1) decline to conduct a social study for the suit, or~~

1 ~~[(2) disclose any issue or concern to the court before~~
2 ~~accepting the appointment or assignment].~~

3 (b) The court may not appoint a person as a child custody
4 evaluator in a suit if the person makes any of the disclosures in
5 Subsection (a) unless:

6 (1) the court finds that:

7 (A) the person has no conflict of interest with a
8 party to the suit or a child who is the subject of the suit;

9 (B) the person's previous knowledge of a party to
10 the suit or a child who is the subject of the suit is not relevant;

11 (C) the person does not have a pecuniary
12 relationship with an attorney in the suit; and

13 (D) the person does not have a relationship of
14 trust or confidence with an attorney in the suit; or

15 (2) the parties and any attorney for a child who is the
16 subject of the suit agree in writing to the person's appointment as
17 the child custody evaluator.

18 (c) After being appointed as a child custody evaluator in a
19 suit, a person shall immediately disclose to the court, each
20 attorney for a party to the suit, any attorney for a child who is the
21 subject of the suit, and any party to the suit who does not have an
22 attorney any discovery of:

23 (1) a conflict of interest that the person believes
24 the person has with a party to the suit or a child who is the subject
25 of the suit; and

26 (2) previous knowledge that the person has of a party
27 to the suit or a child who is the subject of the suit, other than

1 knowledge obtained in a court-ordered evaluation.

2 (d) A person shall resign from the person's appointment as a
3 child custody evaluator in a suit if the person makes any of the
4 disclosures in Subsection (c) unless:

5 (1) the court finds that:

6 (A) the person has no conflict of interest with a
7 party to the suit or a child who is the subject of the suit; and

8 (B) the person's previous knowledge of a party to
9 the suit or a child who is the subject of the suit is not relevant;
10 or

11 (2) the parties and any attorney for a child who is the
12 subject of the suit agree in writing to the person's continued
13 appointment as the child custody evaluator.

14 (e) A child custody [social study] evaluator who has
15 previously conducted a child custody evaluation [social study] for
16 a suit may conduct all subsequent evaluations in the suit unless the
17 court finds that the evaluator is biased.

18 (f) An individual may not be appointed as a child custody
19 evaluator in a suit if the individual has worked in a professional
20 capacity with a party to the suit, a child who is the subject of the
21 suit, or a member of the party's or child's family who is involved in
22 the suit. This subsection does not apply to an individual who has
23 worked in a professional capacity with a party, a child, or a member
24 of the party's or child's family only as a teacher of parenting
25 skills in a group setting, with no individualized interaction with
26 any party, the child, any party's family, or the child's family, or
27 as a child custody evaluator who performed a previous evaluation. A

1 child custody evaluator who has worked as a teacher of parenting
2 skills in a group setting that included a party, a child, or another
3 person who will be the subject of an evaluation or has worked as a
4 child custody evaluator for a previous evaluation must notify the
5 court and the attorney of each represented party or, if a party is
6 not represented, the evaluator must notify the party. For purposes
7 of this subsection, "family" has the meaning assigned by Section
8 71.003.

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

14 SECTION 1.09. Section 107.0513, Family Code, is
15 redesignated as Section 107.108, Family Code, and amended to read
16 as follows:

17 Sec. 107.108 [~~107.0513~~]. GENERAL PROVISIONS APPLICABLE TO
18 CONDUCT OF CHILD CUSTODY EVALUATION [~~SOCIAL STUDY~~] AND PREPARATION
19 OF REPORT. (a) Unless otherwise directed by a court or prescribed
20 by a provision of this title, a child custody [~~social study~~]
21 evaluator's actions in conducting a child custody evaluation must
22 [~~social study shall~~] be in conformance with the professional
23 standard of care applicable to the evaluator's licensure and any
24 administrative rules, ethical standards, or guidelines adopted by
25 the licensing authority [~~state agency~~] that licenses the evaluator.

26 (b) A [~~In addition to the requirements prescribed by this~~
27 ~~subchapter, a~~] court may impose requirements or adopt local rules

1 applicable to a child custody evaluation [~~social study~~] or a child
2 custody [~~social study~~] evaluator that do not conflict with this
3 subchapter.

4 (c) A child custody [~~social study~~] evaluator shall follow
5 evidence-based practice methods and make use of current best
6 evidence in making assessments and recommendations.

7 (d) A child custody [~~social study~~] evaluator shall disclose
8 to each attorney of record any communication regarding a
9 substantive issue between the evaluator and an attorney of record
10 representing a party in a contested [~~disputed~~] suit. This
11 subsection does not apply to a communication between a child
12 custody [~~social study~~] evaluator and an attorney ad litem or amicus
13 attorney.

14 (e) To the extent possible, a child custody [~~social study~~]
15 evaluator shall verify each statement of fact pertinent to a child
16 custody evaluation [~~social study~~] and shall note the sources of
17 verification and information in the child custody evaluation report
18 prepared under Section 107.113.

19 (f) A child custody [~~social study~~] evaluator shall state the
20 basis for the evaluator's conclusions or recommendations, and the
21 extent to which information obtained limits the reliability and
22 validity of the opinion and the conclusions and recommendations of
23 the evaluator, in the child custody evaluation report prepared
24 under Section 107.113. A child custody [~~social study~~] evaluator
25 who has evaluated only one side of a contested suit [~~disputed case~~]
26 shall refrain from making a recommendation regarding
27 conservatorship of a child or possession of or access to a child,

1 but may state whether any information obtained regarding a child's
2 placement with a party indicates concerns for:

- 3 (1) the safety of the child;
- 4 (2) the party's parenting skills or capability;
- 5 (3) the party's relationship with the child; or
- 6 (4) the mental health of the party ~~[the party~~
7 ~~evaluated appears to be suitable for conservatorship].~~

8 (g) A child custody evaluation ~~[Each social study subject to~~
9 ~~this subchapter]~~ must be conducted in compliance with this
10 subchapter, regardless of whether the child custody evaluation
11 ~~[study]~~ is conducted:

- 12 (1) by a single child custody ~~[social study]~~ evaluator
13 or multiple evaluators working separately or together; or
- 14 (2) within a county served by the court with
15 continuing jurisdiction or at a geographically distant location.

16 (h) A child custody evaluation ~~[social study]~~ report must
17 include for each child custody evaluator who conducted any portion
18 of the child custody evaluation:

- 19 (1) the name and~~[]~~ license number of the child
20 custody evaluator;~~[]~~ and
- 21 (2) a statement that the child custody evaluator:
 - 22 (A) has read and meets the requirements of ~~[basis~~
23 ~~for qualification under]~~ Section 107.104; or
 - 24 (B) was appointed under Section 107.106
25 ~~[107.0511 of each social study evaluator who conducted any portion~~
26 ~~of the social study].~~

27 SECTION 1.10. Section 107.0514, Family Code, is

1 redesignated as Section 107.109, Family Code, and amended to read
2 as follows:

3 Sec. 107.109 [~~107.0514~~]. ELEMENTS OF CHILD CUSTODY
4 EVALUATION [~~SOCIAL STUDY~~]. (a) A child custody evaluator may not
5 offer an opinion regarding conservatorship of a child who is the
6 subject of a suit or possession of or access to the child unless
7 each basic element of a child custody evaluation as described by
8 this section has been completed.

9 (b) A child custody evaluator shall:

10 (1) identify in the report required by Section 107.113
11 any basic element or any additional element of a child custody
12 evaluation described by this section that was not completed;

13 (2) explain the reasons the element was not completed;
14 and

15 (3) include an explanation of the likely effect of the
16 missing element on the confidence the child custody evaluator has
17 in the evaluator's expert opinion.

18 (c) The basic elements of a child custody evaluation [~~social~~
19 ~~study~~] under this subchapter consist of:

20 (1) a personal interview of each party to the suit;

21 (2) interviews [~~an interview~~], conducted in a
22 developmentally appropriate manner, of each child who is the
23 subject of [~~at issue in~~] the suit, regardless of the age of the
24 child, during a period of possession of each party to the suit but
25 outside the presence of the party [~~who is at least four years of~~
26 ~~age~~];

27 (3) observation of each child who is the subject of [~~at~~

1 ~~issue in]~~ the suit, regardless of the age of the child, in the
2 presence of each party to the suit, including, as appropriate,
3 during supervised visitation, unless contact between a party and a
4 child is prohibited by court order or the person conducting the
5 evaluation has good cause for not conducting the observation and
6 states the good cause in writing provided to the parties to the suit
7 before the completion of the evaluation;

8 (4) an observation and, if the child is at least four
9 years old, an interview of any child who is not a subject of the suit
10 who lives on a full-time basis in a residence that is the subject of
11 the evaluation, including with other children or parties who are
12 subjects of the evaluation, where appropriate;

13 (5) the obtaining of information from relevant
14 collateral sources, including the review of:

15 (A) relevant school records;

16 (B) relevant physical and mental health records
17 of each party to the suit and each child who is the subject of the
18 suit;

19 (C) relevant records of the department obtained
20 under Section 107.111;

21 (D) criminal history information relating to
22 each child who is the subject of the suit, each party to the suit,
23 and each person who lives with a party to the suit; and

24 (E) any other collateral source that may have
25 relevant information;

26 (6) ~~(5)~~ evaluation of the home environment of each
27 party seeking conservatorship of a child who is the subject of [at

1 ~~issue in~~] the suit or possession of or access to the child, unless
2 the condition of the home environment is identified as not being in
3 dispute in the court order requiring the child custody evaluation
4 ~~[social study]~~;

5 (7) ~~[(6)]~~ for each individual residing in a residence
6 subject to the child custody evaluation ~~[social study]~~,
7 consideration of any criminal history information and any contact
8 with the department ~~[Department of Family and Protective Services]~~
9 or a law enforcement agency regarding abuse or neglect; and

10 (8) ~~[(7)]~~ assessment of the relationship between each
11 child who is the subject of ~~[at issue in]~~ the suit and each party
12 seeking possession of or access to the child.

13 (d) ~~[(b)]~~ The additional elements of a child custody
14 evaluation ~~[social study]~~ under this subchapter consist of:

15 (1) balanced interviews and observations
16 ~~[observation]~~ of each child who is the subject of ~~[at issue in]~~ the
17 suit so that a child who is interviewed or observed while in the
18 care of one party to the suit is also interviewed or observed while
19 in the care of each other party to the suit;

20 (2) an interview of each individual, including a child
21 who is at least four years of age, residing on a full-time or
22 part-time basis in a residence subject to the child custody
23 evaluation ~~[social study]~~; ~~[and]~~

24 (3) evaluation of the home environment of each party
25 seeking conservatorship of a child who is the subject of ~~[at issue~~
26 ~~in]~~ the suit or possession of or access to the child, regardless of
27 whether the home environment is in dispute;

1 (4) observation of a child who is the subject of the
2 suit with each adult who lives in a residence that is the subject of
3 the evaluation;

4 (5) an interview, if the child is at least four years
5 of age, and observation of a child who is not the subject of the suit
6 but who lives on a full-time or part-time basis in a residence that
7 is the subject of the evaluation;

8 (6) psychometric testing, if necessary, consistent
9 with Section 107.110; and

10 (7) the performance of other tasks requested of the
11 evaluator by the court, including:

12 (A) a joint interview of the parties to the suit;
13 or

14 (B) the review of any other information that the
15 court determines is relevant.

16 ~~[(c) A social study evaluator may not offer an opinion~~
17 ~~regarding conservatorship of a child at issue in a suit or~~
18 ~~possession of or access to the child unless each basic element of a~~
19 ~~social study under Subsection (a) has been completed. A social~~
20 ~~study evaluator shall identify in the report any additional element~~
21 ~~of a social study under Subsection (b) that was not completed and~~
22 ~~shall explain the reasons that the element was not completed.]~~

23 SECTION 1.11. Subchapter D, Chapter 107, Family Code, is
24 amended by adding Section 107.110 to read as follows:

25 Sec. 107.110. PSYCHOMETRIC TESTING. (a) A child custody
26 evaluator may conduct psychometric testing as part of a child
27 custody evaluation if:

1 (1) ordered by the court or determined necessary by
2 the child custody evaluator; and

3 (2) the child custody evaluator is:

4 (A) appropriately licensed and trained to
5 administer and interpret the specific psychometric tests selected;
6 and

7 (B) trained in the specialized forensic
8 application of psychometric testing.

9 (b) Selection of a specific psychometric test is at the
10 professional discretion of the child custody evaluator based on the
11 specific issues raised in the suit.

12 (c) A child custody evaluator may only use psychometric
13 tests if the evaluator is familiar with the reliability,
14 validation, and related standardization or outcome studies of, and
15 proper applications and use of, the tests within a forensic
16 setting.

17 (d) If a child custody evaluator considers psychometric
18 testing necessary but lacks specialized training or expertise to
19 use the specific tests under this section, the evaluator may
20 designate a licensed psychologist to conduct the testing.

21 SECTION 1.12. Subchapter D, Chapter 107, Family Code, is
22 amended by adding Section 107.1101 to read as follows:

23 Sec. 107.1101. EFFECT OF POTENTIALLY UNDIAGNOSED SERIOUS
24 MENTAL ILLNESS. (a) In this section, "serious mental illness" has
25 the meaning assigned by Section 1355.001, Insurance Code.

26 (b) If a child custody evaluator identifies the presence of
27 a potentially undiagnosed serious mental illness experienced by an

1 individual who is a subject of the child custody evaluation and the
2 evaluator is not qualified by the evaluator's licensure,
3 experience, and training to assess a serious mental illness, the
4 evaluator shall make one or more appropriate referrals for a mental
5 examination of the individual.

6 (c) The child custody evaluation report must include any
7 information that the evaluator considers appropriate under the
8 circumstances regarding the possible effects of an individual's
9 potentially undiagnosed serious mental illness on the evaluation
10 and the evaluator's recommendations.

11 SECTION 1.13. Section [107.05145](#), Family Code, is
12 redesignated as Section 107.111, Family Code, and amended to read
13 as follows:

14 Sec. [107.111](#) [[107.05145](#)]. CHILD CUSTODY [~~SOCIAL STUDY~~]
15 EVALUATOR ACCESS TO INVESTIGATIVE RECORDS OF DEPARTMENT [~~OF FAMILY~~
16 ~~AND PROTECTIVE SERVICES~~]; OFFENSE. (a) A child custody [~~social~~
17 ~~study~~] evaluator appointed by a court is entitled to obtain from the
18 department [~~Department of Family and Protective Services~~] a
19 complete, unredacted copy of any investigative record regarding
20 abuse or neglect that relates to any person residing in the
21 residence subject to the child custody evaluation [~~social study~~].

22 (b) Except as provided by this section, records obtained by
23 a child custody [~~social study~~] evaluator from the department
24 [~~Department of Family and Protective Services~~] under this section
25 are confidential and not subject to disclosure under Chapter 552,
26 Government Code, or to disclosure in response to a subpoena or a
27 discovery request.

1 (c) A child custody [~~social study~~] evaluator may disclose
2 information obtained under Subsection (a) in the child custody
3 evaluation [~~social study~~] report prepared under Section 107.113
4 only to the extent the evaluator determines that the information is
5 relevant to the child custody evaluation [~~social study~~] or a
6 recommendation made under this subchapter.

7 (d) A person commits an offense if the person recklessly
8 discloses confidential information obtained from the department
9 [~~Department of Family and Protective Services~~] in violation of this
10 section. An offense under this subsection is a Class A misdemeanor.

11 SECTION 1.14. Subchapter D, Chapter 107, Family Code, is
12 amended by adding Section 107.112 to read as follows:

13 Sec. 107.112. COMMUNICATIONS AND RECORDKEEPING OF CHILD
14 CUSTODY EVALUATOR. (a) Notwithstanding any rule, standard of
15 care, or privilege applicable to the professional license held by a
16 child custody evaluator, a communication made by a participant in a
17 child custody evaluation is subject to disclosure and may be
18 offered in any judicial or administrative proceeding if otherwise
19 admissible under the rules of evidence.

20 (b) A child custody evaluator shall:

21 (1) keep a detailed record of interviews that the
22 evaluator conducts, observations that the evaluator makes, and
23 substantive interactions that the evaluator has as part of a child
24 custody evaluation; and

25 (2) maintain the evaluator's records consistent with
26 applicable laws, including rules applicable to the evaluator's
27 license.

1 (c) Except for records obtained from the department in
2 accordance with Section 107.111, a private child custody evaluator
3 shall, after completion of an evaluation and the preparation and
4 filing of a child custody evaluation report under Section 107.113,
5 make available in a reasonable time the evaluator's records
6 relating to the evaluation on the written request of an attorney for
7 a party, a party who does not have an attorney, and any person
8 appointed under this chapter in the suit in which the evaluator
9 conducted the evaluation, unless a court has issued an order
10 restricting disclosure of the records.

11 (d) Except for records obtained from the department in
12 accordance with Section 107.111, records relating to a child
13 custody evaluation conducted by an employee of or contractor with a
14 domestic relations office shall, after completion of the evaluation
15 and the preparation and filing of a child custody evaluation report
16 under Section 107.113, be made available on written request
17 according to the local rules and policies of the office.

18 (e) A person maintaining records subject to disclosure
19 under this section may charge a reasonable fee for producing the
20 records before copying the records.

21 (f) A private child custody evaluator shall retain all
22 records relating to a child custody evaluation conducted by the
23 evaluator until the ending date of the retention period adopted by
24 the licensing authority that issues the professional license held
25 by the evaluator based on the date the evaluator filed the child
26 custody evaluation report prepared under this section with the
27 court.

1 (g) A domestic relations office shall retain records
2 relating to a child custody evaluation conducted by a child custody
3 evaluator acting as an employee of or contractor with the office for
4 the retention period established by the office.

5 (h) A person who participates in a child custody evaluation
6 is not a patient as that term is defined by Section 611.001(1),
7 Health and Safety Code.

8 SECTION 1.15. Section 107.054, Family Code, is redesignated
9 as Section 107.113, Family Code, and amended to read as follows:

10 Sec. 107.113 [~~107.054~~]. CHILD CUSTODY EVALUATION REPORT
11 REQUIRED [~~FILED WITH COURT~~]. (a) A child custody evaluator who
12 conducts a child custody evaluation shall prepare and file a report
13 containing the evaluator's findings, opinions, recommendations,
14 and answers to specific questions asked by the court relating to the
15 evaluation.

16 (b) The [~~agency or~~] person conducting a child custody
17 evaluation [~~making the social study~~] shall file with the court on a
18 date set by the court a report containing the person's [~~its~~]
19 findings and conclusions. The report shall be made a part of the
20 record of the suit.

21 (c) If the suit is settled before completion of the child
22 custody evaluation report, the report under this section is not
23 required.

24 (d) A report prepared under this section must include the
25 information required by Section 107.108(h) for each child custody
26 evaluator who conducted any portion of the evaluation.

27 SECTION 1.16. Section 107.055, Family Code, is redesignated

1 as Section 107.114, Family Code, and amended to read as follows:

2 Sec. 107.114 [~~107.055~~]. INTRODUCTION AND PROVISION OF
3 CHILD CUSTODY EVALUATION REPORT [~~AT TRIAL~~]. (a) Disclosure to the
4 jury of the contents of a child custody evaluation report prepared
5 under Section 107.113 [~~to the court of a social study~~] is subject to
6 the rules of evidence.

7 (b) Unless the court has rendered an order restricting
8 disclosure, a private child custody evaluator shall provide to the
9 attorneys of the parties to a suit, any party who does not have an
10 attorney, and any other person appointed by the court under this
11 chapter in a suit a copy [~~In a contested case, the agency or person~~
12 ~~making the social study shall furnish copies~~] of the child custody
13 evaluation report [~~to the attorneys for the parties~~] before the
14 earlier of:

15 (1) the third [~~seventh~~] day after the date the child
16 custody evaluation report [~~social study~~] is completed; or

17 (2) the 30th [~~fifth~~] day before the date of
18 commencement of the trial.

19 (c) A child custody evaluator who conducts a child custody
20 evaluation as an employee of or under contract with a domestic
21 relations office shall provide to the attorneys of the parties to a
22 suit and any person appointed in the suit under this chapter a copy
23 of the child custody evaluation report before the earlier of:

24 (1) the seventh day after the date the child custody
25 evaluation report is completed; or

26 (2) the fifth day before the date the trial commences.

27 (d) A child custody evaluator who conducts a child custody

1 evaluation as an employee of or under contract with a domestic
2 relations office shall provide a copy of the report to a party to
3 the suit as provided by the local rules and policies of the office
4 or by a court order [~~The court may compel the attendance of~~
5 ~~witnesses necessary for the proper disposition of the suit,~~
6 ~~including a representative of the agency making the social study,~~
7 ~~who may be compelled to testify~~].

8 SECTION 1.17. Section 107.056, Family Code, is redesignated
9 as Section 107.115, Family Code, and amended to read as follows:

10 Sec. 107.115 [~~107.056~~]. CHILD CUSTODY EVALUATION
11 [~~PREPARATION~~] FEE. If the court orders a child custody evaluation
12 [~~social study~~] to be conducted, the court shall award the [~~agency or~~
13 ~~other~~] person appointed as the child custody evaluator a reasonable
14 fee for the preparation of the child custody evaluation [~~study~~]
15 that shall be imposed in the form of a money judgment and paid
16 directly to the [~~agency or other~~] person. The person [~~or agency~~]
17 may enforce the judgment for the fee by any means available under
18 law for civil judgments.

19 SECTION 1.18. Chapter 107, Family Code, is amended by
20 adding Subchapters E and F to read as follows:

21 SUBCHAPTER E. ADOPTION EVALUATION

22 Sec. 107.151. DEFINITIONS. In this subchapter:

23 (1) "Adoption evaluation" means a pre-placement or
24 post-placement evaluative process through which information and
25 recommendations regarding adoption of a child may be made to the
26 court, the parties, and the parties' attorneys.

27 (2) "Adoption evaluator" means a person who conducts

1 an adoption evaluation under this subchapter.

2 (3) "Department" means the Department of Family and
3 Protective Services.

4 (4) "Supervision" means directing, regularly
5 reviewing, and meeting with a person with respect to the completion
6 of work for which the supervisor is responsible for the outcome.
7 The term does not require the constant physical presence of the
8 person providing supervision and may include telephonic or other
9 electronic communication.

10 Sec. 107.152. APPLICABILITY. (a) For purposes of this
11 subchapter, an adoption evaluation does not include services
12 provided in accordance with the Interstate Compact on the Placement
13 of Children adopted under Subchapter B, Chapter 162, or an
14 evaluation conducted in accordance with Section 262.114 by an
15 employee of or contractor with the department.

16 (b) This subchapter does not apply to the pre-placement and
17 post-placement parts of an adoption evaluation conducted by a
18 licensed child-placing agency or the department.

19 (c) The pre-placement and post-placement parts of an
20 adoption evaluation conducted by a licensed child-placing agency or
21 the department are governed by rules adopted by the executive
22 commissioner of the Health and Human Services Commission.

23 (d) In a suit involving a licensed child-placing agency or
24 the department, a licensed child-placing agency or the department
25 shall conduct the pre-placement and post-placement parts of the
26 adoption evaluation and file reports on those parts with the court
27 before the court renders a final order of adoption.

1 (e) A court may appoint the department to conduct the
2 pre-placement and post-placement parts of an adoption evaluation in
3 a suit only if the department is:

4 (1) a party to the suit; or

5 (2) the managing conservator of the child who is the
6 subject of the suit.

7 Sec. 107.153. ORDER FOR ADOPTION EVALUATION. (a) The court
8 shall order the performance of an adoption evaluation to evaluate
9 each party who requests termination of the parent-child
10 relationship or an adoption in a suit for:

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

14 (2) an adoption.

15 (b) The adoption evaluation required under Subsection (a)
16 must include an evaluation of the circumstances and the condition
17 of the home and social environment of any person requesting to adopt
18 a child who is at issue in the suit.

19 (c) The court may appoint a qualified individual, a
20 qualified private entity, or a domestic relations office to conduct
21 the adoption evaluation.

22 (d) Except as provided by Section 107.155, a person who
23 conducts an adoption evaluation must meet the requirements of
24 Section 107.154.

25 (e) The costs of an adoption evaluation under this section
26 shall be paid by the prospective adoptive parent.

27 Sec. 107.154. ADOPTION EVALUATOR: MINIMUM QUALIFICATIONS.

1 (a) In this section:

2 (1) "Full-time experience" means a period during which
3 a person works at least 30 hours per week.

4 (2) "Human services field of study" means a field of
5 study designed to prepare a person in the disciplined application
6 of counseling, family therapy, psychology, or social work values,
7 principles, and methods.

8 (b) To be qualified to conduct an adoption evaluation under
9 this subchapter, a person must:

10 (1) have a degree from an accredited college or
11 university in a human services field of study and a license to
12 practice in this state as a social worker, professional counselor,
13 marriage and family therapist, or psychologist and:

14 (A) have one year of full-time experience working
15 at a child-placing agency conducting child-placing activities; or

16 (B) be practicing under the direct supervision of
17 a person qualified under this section to conduct adoption
18 evaluations;

19 (2) be employed by a domestic relations office,
20 provided that the person conducts adoption evaluations relating
21 only to families ordered to participate in adoption evaluations
22 conducted by the domestic relations office; or

23 (3) be qualified as a child custody evaluator under
24 Section 107.104.

25 (c) In addition to the other qualifications prescribed by
26 this section, an individual must complete at least eight hours of
27 family violence dynamics training provided by a family violence

1 service provider to be qualified to conduct an adoption evaluation
2 under this subchapter.

3 Sec. 107.155. EXCEPTION TO QUALIFICATIONS REQUIRED TO
4 CONDUCT ADOPTION EVALUATION. (a) In a county with a population of
5 less than 500,000, if a court finds that an individual who meets the
6 requirements of Section 107.154 is not available in the county to
7 conduct an adoption evaluation in a timely manner, the court, after
8 notice and hearing or on agreement of the parties, may appoint a
9 person the court determines to be otherwise qualified to conduct
10 the evaluation.

11 (b) An individual appointed under this section shall comply
12 with all provisions of this subchapter, other than Section 107.154.

13 Sec. 107.156. ADOPTION EVALUATOR: CONFLICTS OF INTEREST AND
14 BIAS. (a) Before accepting appointment as an adoption evaluator in
15 a suit, a person must disclose to the court, each attorney for a
16 party to the suit, any attorney for a child who is the subject of the
17 suit, and any party to the suit who does not have an attorney:

18 (1) any conflict of interest that the person believes
19 the person has with a party to the suit or a child who is the subject
20 of the suit;

21 (2) any previous knowledge that the person has of a
22 party to the suit or a child who is the subject of the suit;

23 (3) any pecuniary relationship that the person
24 believes the person has with an attorney in the suit;

25 (4) any relationship of confidence or trust that the
26 person believes the person has with an attorney in the suit; and

27 (5) any other information relating to the person's

1 relationship with an attorney in the suit that a reasonable,
2 prudent person would believe would affect the ability of the person
3 to act impartially in conducting an adoption evaluation.

4 (b) The court may not appoint a person as an adoption
5 evaluator in a suit if the person makes any of the disclosures in
6 Subsection (a) unless:

7 (1) the court finds that:

8 (A) the person has no conflict of interest with a
9 party to the suit or a child who is the subject of the suit;

10 (B) the person's previous knowledge of a party to
11 the suit or a child who is the subject of the suit is not relevant;

12 (C) the person does not have a pecuniary
13 relationship with an attorney in the suit; and

14 (D) the person does not have a relationship of
15 trust or confidence with an attorney in the suit; or

16 (2) the parties and any attorney for a child who is the
17 subject of the suit agree in writing to the person's appointment as
18 the adoption evaluator.

19 (c) After being appointed as an adoption evaluator in a
20 suit, a person shall immediately disclose to the court, each
21 attorney for a party to the suit, any attorney for a child who is the
22 subject of the suit, and any party to the suit who does not have an
23 attorney any discovery of:

24 (1) a conflict of interest that the person believes
25 the person has with a party to the suit or a child who is the subject
26 of the suit; and

27 (2) previous knowledge that the person has of a party

1 to the suit or a child who is the subject of the suit, other than
2 knowledge obtained in a court-ordered evaluation.

3 (d) A person shall resign from the person's appointment as
4 an adoption evaluator in a suit if the person makes any of the
5 disclosures in Subsection (c) unless:

6 (1) the court finds that:

7 (A) the person has no conflict of interest with a
8 party to the suit or a child who is the subject of the suit; and

9 (B) the person's previous knowledge of a party to
10 the suit or a child who is the subject of the suit is not relevant;
11 or

12 (2) the parties and any attorney for a child who is the
13 subject of the suit agree in writing to the person's continued
14 appointment as the adoption evaluator.

15 (e) An individual may not be appointed as an adoption
16 evaluator in a suit if the individual has worked in a professional
17 capacity with a party to the suit, a child who is the subject of the
18 suit, or a member of the party's or child's family who is involved in
19 the suit. This subsection does not apply to an individual who has
20 worked in a professional capacity with a party, a child, or a member
21 of the party's or child's family only as a teacher of parenting
22 skills in a group setting, with no individualized interaction with
23 any party, the child, any party's family, or the child's family, or
24 as a child custody evaluator or adoption evaluator who performed a
25 previous evaluation. For purposes of this subsection, "family" has
26 the meaning assigned by Section [71.003](#).

27 Sec. 107.157. REPORTING CERTAIN PLACEMENTS FOR ADOPTION.

1 An adoption evaluator shall report to the department any adoptive
2 placement that appears to have been made by someone other than a
3 licensed child-placing agency or a child's parent or managing
4 conservator.

5 Sec. 107.158. GENERAL PROVISIONS APPLICABLE TO CONDUCT OF
6 ADOPTION EVALUATOR AND PREPARATION OF REPORTS. (a) Unless
7 otherwise directed by a court or prescribed by this subchapter, an
8 adoption evaluator's actions in conducting an adoption evaluation
9 must be in conformance with the professional standard of care
10 applicable to the evaluator's licensure and any administrative
11 rules, ethical standards, or guidelines adopted by the licensing
12 authority that licenses the evaluator.

13 (b) A court may impose requirements or adopt local rules
14 applicable to an adoption evaluation or an adoption evaluator that
15 do not conflict with this subchapter.

16 (c) An adoption evaluator shall follow evidence-based
17 practice methods and make use of current best evidence in making
18 assessments and recommendations.

19 (d) An adoption evaluator shall disclose to each attorney of
20 record any communication regarding a substantive issue between the
21 evaluator and an attorney of record representing a party in a
22 contested suit. This subsection does not apply to a communication
23 between an adoption evaluator and an amicus attorney.

24 (e) To the extent possible, an adoption evaluator shall
25 verify each statement of fact pertinent to an adoption evaluation
26 and shall note the sources of verification and information in any
27 report prepared on the evaluation.

1 (f) An adoption evaluator shall state the basis for the
2 evaluator's conclusions or recommendations in any report prepared
3 on the evaluation.

4 (g) An adoption evaluation report must include for each
5 adoption evaluator who conducted any portion of the adoption
6 evaluation:

7 (1) the name and license number of the adoption
8 evaluator; and

9 (2) a statement that the adoption evaluator:

10 (A) has read and meets the requirements of
11 Section 107.154; or

12 (B) was appointed under Section 107.155.

13 Sec. 107.159. REQUIREMENTS FOR PRE-PLACEMENT PORTION OF
14 ADOPTION EVALUATION AND REPORT. (a) Unless otherwise agreed to by
15 the court, the pre-placement part of an adoption evaluation must
16 comply with the minimum requirements for the pre-placement part of
17 an adoption evaluation under rules adopted by the executive
18 commissioner of the Health and Human Services Commission.

19 (b) Unless a child who is the subject of the suit begins to
20 reside in a prospective adoptive home before the suit is commenced,
21 an adoption evaluator shall file with the court a report containing
22 the evaluator's findings and conclusions made after completion of
23 the pre-placement portion of the adoption evaluation.

24 (c) In a suit filed after the date a child who is the subject
25 of the suit begins to reside in a prospective adoptive home, the
26 report required under this section and the post-placement adoption
27 evaluation report required under Section 107.160 may be combined in

1 a single report.

2 (d) The report required under this section must be filed
3 with the court before the court may sign the final order for
4 termination of the parent-child relationship. The report shall be
5 included in the record of the suit.

6 (e) A copy of the report prepared under this section must be
7 made available to the prospective adoptive parents before the court
8 renders a final order of adoption.

9 Sec. 107.160. REQUIREMENTS FOR POST-PLACEMENT PORTION OF
10 ADOPTION EVALUATION AND REPORT. (a) Unless otherwise agreed to by
11 the court, the post-placement part of an adoption evaluation must
12 comply with the minimum requirements for the post-placement part of
13 an adoption evaluation under rules adopted by the executive
14 commissioner of the Health and Human Services Commission.

15 (b) An adoption evaluator shall file with the court a report
16 containing the evaluator's findings and conclusions made after a
17 child who is the subject of the suit in which the evaluation is
18 ordered begins to reside in a prospective adoptive home.

19 (c) The report required under this section must be filed
20 with the court before the court renders a final order of adoption.
21 The report shall be included in the record of the suit.

22 (d) A copy of the report prepared under this section must be
23 made available to the prospective adoptive parents before the court
24 renders a final order of adoption.

25 Sec. 107.161. INTRODUCTION AND PROVISION OF ADOPTION
26 EVALUATION REPORT AND TESTIMONY RELATING TO ADOPTION EVALUATION.

27 (a) Disclosure to the jury of the contents of an adoption

1 evaluation report prepared under Section 107.159 or 107.160 is
2 subject to the rules of evidence.

3 (b) The court may compel the attendance of witnesses
4 necessary for the proper disposition of a suit, including a
5 representative of an agency that conducts an adoption evaluation,
6 who may be compelled to testify.

7 Sec. 107.162. ADOPTION EVALUATION FEE. If the court orders
8 an adoption evaluation to be conducted, the court shall award the
9 adoption evaluator a reasonable fee for the preparation of the
10 evaluation that shall be imposed in the form of a money judgment and
11 paid directly to the evaluator. The evaluator may enforce the
12 judgment for the fee by any means available under law for civil
13 judgments.

14 Sec. 107.163. ADOPTION EVALUATOR ACCESS TO INVESTIGATIVE
15 RECORDS OF DEPARTMENT; OFFENSE. (a) An adoption evaluator is
16 entitled to obtain from the department a complete, unredacted copy
17 of any investigative record regarding abuse or neglect that relates
18 to any person residing in the residence subject to the adoption
19 evaluation.

20 (b) Except as provided by this section, records obtained by
21 an adoption evaluator from the department under this section are
22 confidential and not subject to disclosure under Chapter 552,
23 Government Code, or to disclosure in response to a subpoena or a
24 discovery request.

25 (c) An adoption evaluator may disclose information obtained
26 under Subsection (a) in the adoption evaluation report prepared
27 under Section 107.159 or 107.160 only to the extent the evaluator

1 determines that the information is relevant to the adoption
2 evaluation or a recommendation made under this subchapter.

3 (d) A person commits an offense if the person recklessly
4 discloses confidential information obtained from the department in
5 violation of this section. An offense under this subsection is a
6 Class A misdemeanor.

7 SUBCHAPTER F. EVALUATIONS IN CONTESTED ADOPTIONS

8 Sec. 107.201. APPLICABILITY. This subchapter does not
9 apply to services provided in accordance with the Interstate
10 Compact on the Placement of Children adopted under Subchapter B,
11 Chapter 162, to an evaluation conducted in accordance with Section
12 262.114 by an employee of or contractor with the department, or to a
13 suit in which the Department of Family and Protective Services is a
14 party.

15 Sec. 107.202. ASSIGNMENT OF EVALUATIONS IN CONTESTED
16 ADOPTIONS. (a) In a suit in which the adoption of a child is being
17 contested, the court shall determine the nature of the questions
18 posed before appointing an evaluator to conduct either a child
19 custody evaluation or an adoption evaluation.

20 (b) If the court is attempting to determine whether
21 termination of parental rights is in the best interest of a child
22 who is the subject of the suit, the court shall order the evaluation
23 as a child custody evaluation under Subchapter D and include
24 termination as one of the specific issues to be addressed in the
25 evaluation.

26 (c) When appointing an evaluator to assess the issue of
27 termination of parental rights, the court may, through written

1 order, modify the requirements of the child custody evaluation to
2 take into account the circumstances of the family to be assessed.
3 The court may also appoint the evaluator to concurrently address
4 the requirements for an adoption evaluation under Subchapter E if
5 the evaluator recommends that termination of parental rights is in
6 the best interest of the child who is the subject of the suit.

7 (d) If the court is attempting to determine whether the
8 parties seeking adoption would be suitable to adopt the child who is
9 the subject of the suit if the termination of parental rights is
10 granted, but the court is not attempting to determine whether such
11 termination of parental rights is in the child's best interest, the
12 court may order the evaluation as an adoption evaluation under
13 Subchapter E.

14 ARTICLE 2. TESTIMONY IN SUITS AFFECTING THE PARENT-CHILD
15 RELATIONSHIP

16 SECTION 2.01. Chapter 104, Family Code, is amended by
17 adding Section 104.008 to read as follows:

18 Sec. 104.008. CERTAIN TESTIMONY PROHIBITED. (a) A person
19 may not offer an expert opinion or recommendation relating to the
20 conservatorship of or possession of or access to a child at issue in
21 a suit unless the person has conducted a child custody evaluation
22 relating to the child under Subchapter D, Chapter 107.

23 (b) In a contested suit, a mental health professional may
24 provide other relevant information and opinions, other than those
25 prohibited by Subsection (a), relating to any party that the mental
26 health professional has personally evaluated.

27 (c) This section does not apply to a suit in which the

1 Department of Family and Protective Services is a party.

2 ARTICLE 3. CONFORMING AMENDMENTS RELATING TO CHILD CUSTODY
3 EVALUATIONS AND ADOPTION EVALUATIONS

4 SECTION 3.01. Section 153.605(d), Family Code, is amended
5 to read as follows:

6 (d) An individual appointed as a parenting coordinator may
7 not serve in any nonconfidential capacity in the same case,
8 including serving as an amicus attorney, guardian ad litem, child
9 custody [~~or social study~~] evaluator, or adoption evaluator under
10 Chapter 107, as a friend of the court under Chapter 202, or as a
11 parenting facilitator under this subchapter.

12 SECTION 3.02. Section 162.0025, Family Code, is amended to
13 read as follows:

14 Sec. 162.0025. ADOPTION SOUGHT BY MILITARY SERVICE MEMBER.
15 In a suit for adoption, the fact that a petitioner is a member of the
16 armed forces of the United States, a member of the Texas National
17 Guard or the National Guard of another state, or a member of a
18 reserve component of the armed forces of the United States may not
19 be considered by the court, or any person performing an adoption
20 evaluation [~~a social study~~] or home screening, as a negative factor
21 in determining whether the adoption is in the best interest of the
22 child or whether the petitioner would be a suitable parent.

23 SECTION 3.03. Section 162.003, Family Code, is amended to
24 read as follows:

25 Sec. 162.003. ADOPTION EVALUATION [~~PRE-ADOPTIVE AND~~
26 ~~POST-PLACEMENT SOCIAL STUDIES~~]. In a suit for adoption, an
27 adoption evaluation [~~pre-adoptive and post-placement social~~

1 ~~studies~~] must be conducted as provided in Chapter 107.

2 SECTION 3.04. Section 162.0045, Family Code, is amended to
3 read as follows:

4 Sec. 162.0045. PREFERENTIAL SETTING. The court shall grant
5 a motion for a preferential setting for a final hearing on an
6 adoption and shall give precedence to that hearing over all other
7 civil cases not given preference by other law if the adoption
8 evaluation [~~social study~~] has been filed and the criminal history
9 for the person seeking to adopt the child has been obtained.

10 SECTION 3.05. Section 203.004(a), Family Code, is amended
11 to read as follows:

12 (a) A domestic relations office may:

13 (1) collect and disburse child support payments that
14 are ordered by a court to be paid through a domestic relations
15 registry;

16 (2) maintain records of payments and disbursements
17 made under Subdivision (1);

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

19 (A) establish paternity;

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

22 (C) modify or clarify an existing child support
23 order;

24 (4) provide an informal forum in which alternative
25 dispute resolution is used to resolve disputes under this code;

26 (5) prepare a court-ordered child custody evaluation
27 or adoption evaluation [~~social study~~] under Chapter 107;

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

3 (A) termination of the parent-child relationship
4 is sought; or

5 (B) conservatorship of or access to a child is
6 contested;

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

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

9 (9) provide community supervision services under
10 Chapter 157;

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

14 (11) provide, directly or through a contract,
15 visitation services, including supervision of court-ordered
16 visitation, visitation exchange, or other similar services;

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

19 (13) provide parenting coordinator services under
20 Chapter 153.

21 SECTION 3.06. Section [203.005\(a\)](#), Family Code, is amended
22 to read as follows:

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

25 (1) an initial operations fee not to exceed \$15 to be
26 paid to the domestic relations office on each filing of an original
27 suit, motion for modification, or motion for enforcement;

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

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

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

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

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

16 (7) a reasonable fee for preparation of a
17 court-ordered child custody evaluation or adoption evaluation
18 [~~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;

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 3.07. Sections [411.1285](#)(a) and (c), Government
4 Code, are amended to read as follows:

5 (a) A domestic relations office created under Chapter 203,
6 Family Code, is entitled to obtain from the department criminal
7 history record information that relates to a person who is a party
8 to a proceeding in which the domestic relations office is providing
9 services permitted under Chapter 203, Family Code, or a person
10 involved in a child custody evaluation under Chapter 107, Family
11 Code, in which the domestic relations office has been appointed to
12 conduct the child custody evaluation.

13 (c) Criminal history record information requested under
14 this section, except for relevant ~~[including]~~ information included
15 in a report of a child custody evaluation or adoption evaluation
16 ~~[social study]~~ filed under Chapter 107 ~~[Section [107.054](#)]~~, Family
17 Code, may not be released or disclosed by a domestic relations
18 office to a person other than the court ordering the child custody
19 evaluation or adoption evaluation ~~[social study]~~ except on court
20 order or with the consent of the person who is the subject of the
21 criminal history record information.

22 SECTION 3.08. Section [152.06331](#)(f), Human Resources Code,
23 is amended to read as follows:

24 (f) Fees for the preparation of a court-ordered child
25 custody evaluation or adoption evaluation ~~[social study]~~ or any
26 other services provided by the domestic relations office, other
27 than services related to the collection of child support, must be

1 reasonable and imposed on a sliding scale according to the
2 financial resources of the parties using the services.

3 ARTICLE 4. REPEALERS

4 SECTION 4.01. Sections 107.0515, 107.0519, 107.052, and
5 107.053, Family Code, are repealed.

6 ARTICLE 5. TRANSITION AND EFFECTIVE DATE

7 SECTION 5.01. (a) Not later than March 1, 2016, the Texas
8 State Board of Examiners of Psychologists, the Texas State Board of
9 Examiners of Professional Counselors, the Texas State Board of
10 Social Worker Examiners, the Texas State Board of Examiners of
11 Marriage and Family Therapists, and the Texas Medical Board shall
12 adopt any rules necessary for license holders to comply with the
13 requirements of Subchapter D, Chapter 107, Family Code, as amended
14 by this Act, and Subchapters E and F, Chapter 107, Family Code, as
15 added by this Act, and specifying that a person licensed by any of
16 the boards is subject to the rules of the board that licensed the
17 person when appointed by a court to conduct a child custody
18 evaluation under Subchapter D, Chapter 107, Family Code, as amended
19 by this Act, or adoption evaluation under Subchapter E, Chapter
20 107, Family Code, as added by this Act. The rules adopted under this
21 subsection must:

22 (1) specify that any complaint relating to the outcome
23 of a child custody evaluation or adoption evaluation conducted by a
24 person licensed by any of the boards must be reported to the court
25 that ordered the evaluation; and

26 (2) require that license holders receive notice that
27 the disclosure of confidential information in violation of Section

1 107.111 or 107.163, Family Code, as added by this Act, is grounds
2 for disciplinary action.

3 (b) Subsection (a) of this section does not affect the
4 authority of a licensing agency that issues a license to a child
5 custody evaluator to enforce compliance with state law and
6 administrative rules applicable to the license holder.

7 (c) As soon as possible after the effective date of this
8 Act, the Texas State Board of Examiners of Psychologists, the Texas
9 State Board of Examiners of Professional Counselors, and the Texas
10 State Board of Examiners of Marriage and Family Therapists shall
11 adopt rules prohibiting a psychological associate, a licensed
12 specialist in school psychology, a provisionally licensed
13 psychologist, a licensed professional counselor intern, and a
14 licensed marriage and family therapist associate from conducting a
15 child custody evaluation under Subchapter D, Chapter 107, Family
16 Code, as amended by this Act, unless the person is otherwise
17 qualified to conduct the evaluation.

18 (d) As soon as possible after the effective date of this
19 Act, the executive commissioner of the Health and Human Services
20 Commission shall adopt rules prohibiting a licensed chemical
21 dependency counselor from conducting a child custody evaluation as
22 a child custody evaluator under Subchapter D, Chapter 107, Family
23 Code, as amended by this Act, unless the person is otherwise
24 qualified to conduct the evaluation or is appointed by a court to
25 conduct the evaluation under Section 107.106, Family Code, as added
26 by this Act.

27 (e) Not later than March 1, 2016, the executive commissioner

1 of the Health and Human Services Commission shall adopt any rules
2 necessary to implement Subchapter E, Chapter 107, Family Code, as
3 added by this Act. Subchapter E, Chapter 107, Family Code, as added
4 by this Act, applies to an adoption evaluation ordered by a court on
5 or after March 1, 2016, or the date the executive commissioner
6 adopts rules under this subsection, whichever date occurs first.
7 An adoption evaluation, pre-placement adoptive social study, or
8 post-placement adoptive social study ordered by a court before that
9 date is governed by the law in effect immediately before the
10 effective date of this Act, and the former law is continued in
11 effect for that purpose.

12 SECTION 5.02. (a) Notwithstanding any other law, a person
13 is qualified to conduct a child custody evaluation under Section
14 107.104, Family Code, as redesignated and amended by this Act, or an
15 adoption evaluation under Section 107.154, Family Code, as added by
16 this Act, without satisfying the supervision requirements of
17 Section 107.104(b)(1) or (2) if, on or before the effective date of
18 this Act, the person completes at least 10 social studies or other
19 child custody evaluations ordered by a court in suits affecting the
20 parent-child relationship.

21 (b) Notwithstanding any other law, a person who is qualified
22 to conduct a social study evaluation under former Section
23 [107.0511\(g\)](#), Family Code, is authorized to conduct a child custody
24 evaluation before September 1, 2017, without meeting the
25 requirements under Section 107.104, Family Code, as redesignated
26 and amended by this Act, and the former law is continued in effect
27 for that purpose.

1 (c) Notwithstanding Section 107.104(b)(1), Family Code, as
2 redesignated and amended by this Act, an individual who on or before
3 the effective date of this Act has completed at least 20 social
4 studies ordered by a court in suits affecting the parent-child
5 relationship and who holds a license to practice in this state as a
6 social worker, professional counselor, marriage and family
7 therapist, or psychologist is not required to comply with Section
8 107.104(b)(1), Family Code, as redesignated and amended by this
9 Act.

10 SECTION 5.03. The changes in law made by this Act apply to a
11 suit affecting the parent-child relationship that is filed on or
12 after March 1, 2016.

13 SECTION 5.04. This Act takes effect September 1, 2015.

President of the Senate

Speaker of the House

I certify that H.B. No. 1449 was passed by the House on May 8, 2015, by the following vote: Yeas 120, Nays 19, 1 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 1449 was passed by the Senate on May 26, 2015, by the following vote: Yeas 30, Nays 1.

Secretary of the Senate

APPROVED: _____

Date

Governor