

BILL ANALYSIS

H.B. 409
By: Goodman
Juvenile Justice & Family Issues
Committee Report (Unamended)

BACKGROUND AND PURPOSE

In 2001, the Texas Legislature established specific post-judgment procedures in an effort to decrease the amount of time that abused or neglected children have to spend in foster care. The Legislature required a losing party in a parental termination case to tell the trial court – in a timely-filed “Statement of Points” -- what that party wished to complain about on appeal.

Unfortunately, recent appellate decisions have effectively repealed the Legislature’s attempt to address the post-judgment delay issue. These appellate court decisions hold that the Legislature did not really mean what it said and that no adverse consequences flow from an appellant’s failure to comply with this Legislature’s 2001 enactment. These decisions frustrate the Legislature’s goal to speed up the post-judgment process in parental termination cases in order to shorten the time to final resolution.

HB 409 conclusively establishes that the Legislature expects litigants to comply with Section 263.405(b) of the Family Code. Compliance, as the Legislature intended, would correct any wrongs 30 days after trial, as opposed to extending reversals months or years after a trial.

If a mistake is pointed out to the trial court that warrants a new trial, the trial court can immediately order a new trial, and the Legislature’s goal to decrease post-judgment delays is accomplished. Encouraging appellants to ignore the post-judgment procedures enacted by the Legislature in 2001, not only increases the amount of time that abused and neglected children spend in foster care, it bogs down the appellate courts with mistakes that could have been quickly and easily corrected at the trial level.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

Section 1. Amends Section 263.405, of the Family Code by adding Subsection (i) which provides that an appellate court may not consider any issue that was not specifically presented to the trial court in a timely filed statement of the points on which the party intends to appeal or in a statement combined with a motion for new trial. For purposes of this subsection, a claim that a judicial decision is contrary to the evidence or that the evidence is factually or legally insufficient is not sufficiently specific to preserve an issue for appeal.

Section 2. Section 263.405(i), Family Code, as added by this Act, applies only to an appeal of a final order under Subchapter E, Chapter 263, Family Code, filed on or after the effective date of this Act. An appeal of a final order under Subchapter E, Chapter 263, Family Code, filed before the effective date of this Act is governed by the law in effect on the date the appeal was filed, and the former law is continued in effect for that purpose.

EFFECTIVE DATE

September 1, 2005.

