

1-1 By: Rodríguez S.B. No. 820
 1-2 (In the Senate - Filed February 26, 2015; March 3, 2015,
 1-3 read first time and referred to Committee on State Affairs;
 1-4 May 11, 2015, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 8, Nays 0; May 11, 2015,
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16			X	
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 820 By: Ellis

1-19 A BILL TO BE ENTITLED
 1-20 AN ACT

1-21 relating to child custody evaluations and adoption evaluations
 1-22 conducted and testimony provided in certain suits affecting the
 1-23 parent-child relationship; providing penalties; creating an
 1-24 offense; authorizing fees.

1-25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-26 ARTICLE 1. CHILD CUSTODY EVALUATION AND ADOPTION EVALUATION

1-27 SECTION 1.01. The heading to Chapter 107, Family Code, is
 1-28 amended to read as follows:

1-29 CHAPTER 107. SPECIAL APPOINTMENTS, CHILD CUSTODY EVALUATIONS, AND
 1-30 ADOPTION EVALUATIONS [~~SOCIAL STUDIES~~]

1-31 SECTION 1.02. The heading to Subchapter D, Chapter 107,
 1-32 Family Code, is amended to read as follows:

1-33 SUBCHAPTER D. CHILD CUSTODY EVALUATION [~~SOCIAL STUDY~~]

1-34 SECTION 1.03. Section 107.0501, Family Code, is
 1-35 redesignated as Section 107.101, Family Code, and amended to read
 1-36 as follows:

1-37 Sec. 107.101 [~~107.0501~~]. DEFINITIONS. In this subchapter:

1-38 (1) "Child custody evaluation" [~~"Social study"~~] means
 1-39 an evaluative process ordered by a court in a contested case through
 1-40 which information, opinions, [~~and~~] recommendations, and answers to
 1-41 specific questions asked by the court may be:

1-42 (A) made regarding:

1-43 (i) [~~adoption of a child,~~] conservatorship
 1-44 of a child, including the terms and conditions of conservatorship;

1-45 (ii) [~~or~~] possession of or access to a
 1-46 child, including the terms and conditions of possession or access;
 1-47 or

1-48 (iii) any other issue affecting the best
 1-49 interest of a child; and

1-50 (B) [~~may be~~] made to the [~~a~~] court, the parties to
 1-51 the suit, [~~and~~] the parties' attorneys, and any other person
 1-52 appointed under this chapter by the court in the suit. [~~The term~~
 1-53 ~~does not include services provided in accordance with the~~
 1-54 ~~Interstate Compact on the Placement of Children adopted under~~
 1-55 ~~Subchapter B, Chapter 162, or an evaluation conducted in accordance~~
 1-56 ~~with Section 262.114 by an employee of or contractor with the~~
 1-57 ~~Department of Family and Protective Services.]~~

1-58 (2) "Child custody [~~"Social study"~~] evaluator" means an
 1-59 individual who conducts a child custody evaluation [~~social study~~]
 1-60 under this subchapter. The term includes a private child custody

2-1 evaluator.

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

2-4 (4) "Person" includes an agency or a domestic
 2-5 relations office.

2-6 (5) "Private child custody evaluator" means a person
 2-7 conducting a child custody evaluation who is not conducting the
 2-8 evaluation as an employee of or contractor with a domestic
 2-9 relations office.

2-10 (6) "Supervision" means directing, regularly
 2-11 reviewing, and meeting with a person with respect to the completion
 2-12 of work for which the supervisor is responsible for the outcome.
 2-13 The term does not require the constant physical presence of the
 2-14 person providing supervision and may include telephonic or other
 2-15 electronic communication.

2-16 SECTION 1.04. Subchapter D, Chapter 107, Family Code, is
 2-17 amended by adding Sections 107.102 and 107.1025 to read as follows:

2-18 Sec. 107.102. APPLICABILITY. (a) For purposes of this
 2-19 subchapter, a child custody evaluation does not include services
 2-20 provided in accordance with the Interstate Compact on the Placement
 2-21 of Children adopted under Subchapter B, Chapter 162, or an
 2-22 evaluation conducted in accordance with Section 262.114 by an
 2-23 employee of or contractor with the department.

2-24 (b) The department may not conduct a child custody
 2-25 evaluation.

2-26 (c) Except as provided by Subsections (a) and (b), this
 2-27 subchapter does not apply to the department or to a suit to which
 2-28 the department is a party.

2-29 Sec. 107.1025. EFFECT OF MENTAL EXAMINATION. A mental
 2-30 examination described by Rule 204.4, Texas Rules of Civil
 2-31 Procedure, does not by itself satisfy the requirements for a child
 2-32 custody evaluation under this subchapter. A mental examination may
 2-33 be included in the report required under this subchapter and relied
 2-34 on by the child custody evaluator to the extent the evaluator
 2-35 considers appropriate under the circumstances.

2-36 SECTION 1.05. Section 107.051, Family Code, is redesignated
 2-37 as Section 107.103, Family Code, and amended to read as follows:

2-38 Sec. 107.103 [107.051]. ORDER FOR CHILD CUSTODY EVALUATION
 2-39 [SOCIAL STUDY]. (a) The court, after notice and hearing or on
 2-40 agreement of the parties, may order the preparation of a child
 2-41 custody evaluation regarding:

2-42 (1) [social study into] the circumstances and
 2-43 condition of:

2-44 (A) [(1)] a child who is the subject of a suit;

2-45 (B) [or] a party to a suit; and

2-46 (C) [(2)] the residence [home] of any person
 2-47 requesting conservatorship of, possession of, or access to a child
 2-48 who is the subject of the suit; and

2-49 (2) any issue or question relating to the suit at the
 2-50 request of the court before or during the evaluation process.

2-51 (b) The court may not appoint a child custody evaluator in a
 2-52 suit involving a nonparent seeking conservatorship of a child
 2-53 unless, after notice and hearing or on agreement of the parties, the
 2-54 court makes a specific finding that good cause has been shown for
 2-55 the appointment of a child custody evaluator [social study may be
 2-56 made by a private entity, a person appointed by the court, a
 2-57 domestic relations office, or a state agency, including the
 2-58 Department of Family and Protective Services if the department is a
 2-59 party to the suit].

2-60 (c) An order for a child custody evaluation must include:

2-61 (1) the name of each person who will conduct the
 2-62 evaluation;

2-63 (2) the purpose of the evaluation; and

2-64 (3) the specific issues or questions to be addressed
 2-65 in the evaluation [In a suit in which adoption is requested or
 2-66 conservatorship of, possession of, or access to a child is an issue
 2-67 and in which a social study has been ordered and the Department of
 2-68 Family and Protective Services is not a party, the court shall
 2-69 appoint a private agency, another person, or a domestic relations

3-1 ~~office to conduct the social study].~~

3-2 (d) Except as provided by Section 107.106 [~~107.0511(b)~~],
3-3 each individual who conducts a child custody evaluation [~~social~~
3-4 ~~study~~] must be qualified under Section 107.104 [~~107.0511~~].

3-5 SECTION 1.06. Section 107.0511, Family Code, is
3-6 redesignated as Section 107.104, Family Code, and amended to read
3-7 as follows:

3-8 Sec. 107.104 [~~107.0511~~]. CHILD CUSTODY [~~SOCIAL STUDY~~]
3-9 EVALUATOR: MINIMUM QUALIFICATIONS. (a) In this section:

3-10 (1) "Full-time experience" means a period during which
3-11 an individual works at least 30 hours per week.

3-12 (2) "Human services field of study" means a field of
3-13 study designed to prepare an individual in the disciplined
3-14 application of counseling, family therapy, psychology, or social
3-15 work values, principles, and methods.

3-16 (b) [~~The minimum qualifications prescribed by this section~~
3-17 ~~do not apply to an individual conducting a social study.~~

3-18 [~~(1) in connection with a suit pending before a court~~
3-19 ~~located in a county with a population of less than 500,000;~~

3-20 [~~(2) in connection with an adoption governed by rules~~
3-21 ~~adopted under Section 107.0519(a);~~

3-22 [~~(3) as an employee or other authorized representative~~
3-23 ~~of a licensed child-placing agency; or~~

3-24 [~~(4) as an employee or other authorized representative~~
3-25 ~~of the Department of Family and Protective Services.~~

3-26 [~~(c) The executive commissioner of the Health and Human~~
3-27 ~~Services Commission shall adopt rules prescribing the minimum~~
3-28 ~~qualifications that an individual described by Subsection (b)(3) or~~
3-29 ~~(4) must possess in order to conduct a social study under this~~
3-30 ~~subchapter.~~

3-31 [~~(d)] To be qualified to conduct a child custody evaluation
3-32 [~~social study under this subchapter~~], an individual must:~~

3-33 (1) have at least a master's [~~bachelor's~~] degree from
3-34 an accredited college or university in a human services field of
3-35 study and a license to practice in this state as a social worker,
3-36 professional counselor, marriage and family therapist, or
3-37 psychologist, or have a license to practice medicine in this state
3-38 and a board certification in psychiatry and:

3-39 (A) after completing any degree required by this
3-40 subdivision, have two years of full-time experience or equivalent
3-41 part-time experience under professional supervision during which
3-42 the individual performed functions involving the evaluation of
3-43 physical, intellectual, social, and psychological functioning and
3-44 needs and developed an understanding [~~the potential~~] of the social
3-45 and physical environment, both present and prospective, to meet
3-46 those needs; and

3-47 (B) after obtaining a license required by this
3-48 subdivision, have performed [~~participated in the performance of~~] at
3-49 least 10 court-ordered child custody evaluations [~~social studies~~]
3-50 under the supervision of an individual qualified under this
3-51 section;

3-52 (2) meet the requirements of Subdivision (1)(A) and be
3-53 practicing under the direct supervision of an individual qualified
3-54 under this section in order to complete at least 10 court-ordered
3-55 child custody evaluations [~~social studies~~] under supervision; or

3-56 (3) be employed by or under contract with a domestic
3-57 relations office, provided that the individual conducts child
3-58 custody evaluations [~~social studies~~] relating only to families
3-59 ordered by a court to participate in child custody evaluations
3-60 [~~social studies~~] conducted by the domestic relations office.

3-61 (c) Notwithstanding Subsections (b)(1) and (2), an
3-62 individual with a doctoral degree and who holds a license in a human
3-63 services field of study is qualified to conduct a child custody
3-64 evaluation if the individual has completed a number of hours of
3-65 professional development coursework and practice experience
3-66 directly related to the performance of child custody evaluations as
3-67 described by this chapter, satisfactory to the licensing agency
3-68 that issues the individual's license.

3-69 (d) The licensing agency that issues a license to an

4-1 individual described by Subsection (c) may determine by rule that
 4-2 internships, practicums, and other professional preparatory
 4-3 activities completed by the individual during the course of
 4-4 achieving the person's doctoral degree satisfy the requirements of
 4-5 Subsection (c) in whole or in part.

4-6 ~~(e) [If an individual meeting the requirements of this~~
 4-7 ~~section is not available in the county served by the court, the~~
 4-8 ~~court may authorize an individual determined by the court to be~~
 4-9 ~~otherwise qualified to conduct the social study.~~

4-10 ~~[(f)]~~ In addition to the qualifications prescribed by this
 4-11 section, an individual must complete at least eight hours of family
 4-12 violence dynamics training provided by a family violence service
 4-13 provider to be qualified to conduct a child custody evaluation
 4-14 ~~[social study]~~ under this subchapter.

4-15 ~~[(g) The minimum qualifications prescribed by this section~~
 4-16 ~~do not apply to an individual who, before September 1, 2007:~~

4-17 ~~[(1) lived in a county that has a population of 500,000~~
 4-18 ~~or more and is adjacent to two or more counties each of which has a~~
 4-19 ~~population of 50,000 or more;~~

4-20 ~~[(2) received a four-year degree from an accredited~~
 4-21 ~~institution of higher education;~~

4-22 ~~[(3) worked as a child protective services~~
 4-23 ~~investigator for the Department of Family and Protective Services~~
 4-24 ~~for at least four years;~~

4-25 ~~[(4) worked as a community supervision and corrections~~
 4-26 ~~department officer; and~~

4-27 ~~[(5) conducted at least 100 social studies in the~~
 4-28 ~~previous five years.~~

4-29 ~~[(h) A person described by Subsection (g) who performs a~~
 4-30 ~~social study must:~~

4-31 ~~[(1) complete at least eight hours of family violence~~
 4-32 ~~dynamics training provided by a family violence service provider;~~
 4-33 ~~and~~

4-34 ~~[(2) participate annually in at least 15 hours of~~
 4-35 ~~continuing education for child custody evaluators that meets the~~
 4-36 ~~Model Standards of Practice for Child Custody Evaluation adopted by~~
 4-37 ~~the Association of Family and Conciliation Courts as those~~
 4-38 ~~standards existed May 1, 2009, or a later version of those standards~~
 4-39 ~~if adopted by rule of the executive commissioner of the Health and~~
 4-40 ~~Human Services Commission.~~

4-41 ~~[(i) Subsections (g) and (h) and this subsection expire~~
 4-42 ~~September 1, 2017.]~~

4-43 SECTION 1.07. Subchapter D, Chapter 107, Family Code, is
 4-44 amended by adding Sections 107.105 and 107.106 to read as follows:

4-45 Sec. 107.105. CHILD CUSTODY EVALUATION: SPECIALIZED
 4-46 TRAINING REQUIRED. (a) The court shall determine whether the
 4-47 qualifications of a child custody evaluator satisfy the
 4-48 requirements of this subchapter.

4-49 (b) A child custody evaluator must demonstrate, if
 4-50 requested, appropriate knowledge and competence in child custody
 4-51 evaluation services consistent with professional models,
 4-52 standards, and guidelines.

4-53 Sec. 107.106. EXCEPTION TO QUALIFICATIONS REQUIRED TO
 4-54 CONDUCT CHILD CUSTODY EVALUATION. (a) In a county with a
 4-55 population of less than 500,000, if a court finds that an individual
 4-56 who meets the requirements of Section 107.104 is not available in
 4-57 the county to conduct a child custody evaluation in a timely manner,
 4-58 the court, after notice and hearing, may appoint an individual the
 4-59 court determines to be otherwise qualified to conduct the
 4-60 evaluation.

4-61 (b) An individual appointed under this section shall comply
 4-62 with all provisions of this subchapter, other than Section 107.104.

4-63 SECTION 1.08. Section 107.0512, Family Code, is
 4-64 redesignated as Section 107.107, Family Code, and amended to read
 4-65 as follows:

4-66 Sec. 107.107 [107.0512]. CHILD CUSTODY [SOCIAL STUDY]
 4-67 EVALUATOR: CONFLICTS OF INTEREST AND BIAS. (a) Before accepting
 4-68 appointment as a child custody [A social study] evaluator in a suit,
 4-69 a person must disclose to the court, each attorney for a party to

5-1 the suit, any attorney for a child who is the subject of the suit,
 5-2 and any party to the suit who does not have an attorney:

5-3 (1) any ~~[who has a]~~ conflict of interest that the
 5-4 person believes the person has with any party to the ~~[in a disputed]~~
 5-5 suit or a child who is the subject of the suit;

5-6 (2) any ~~[who may be biased on the basis of]~~ previous
 5-7 knowledge that the person has of a party to the suit or a child who
 5-8 is the subject of the suit, other than knowledge obtained in a
 5-9 court-ordered evaluation;

5-10 (3) any pecuniary relationship that the person
 5-11 believes the person has with an attorney in the suit;

5-12 (4) any relationship of confidence or trust that the
 5-13 person believes the person has with an attorney in the suit; and

5-14 (5) any other information relating to the person's
 5-15 relationship with an attorney in the suit that a reasonable,
 5-16 prudent person would believe would affect the ability of the person
 5-17 to act impartially in conducting a child custody evaluation~~;~~
 5-18 shall:

5-19 ~~[(1) decline to conduct a social study for the suit; or~~

5-20 ~~[(2) disclose any issue or concern to the court before~~
 5-21 ~~accepting the appointment or assignment].~~

5-22 (b) The court may not appoint a person as a child custody
 5-23 evaluator in a suit if the person makes any of the disclosures in
 5-24 Subsection (a) unless:

5-25 (1) the court finds that:

5-26 (A) the person has no conflict of interest with a
 5-27 party to the suit or a child who is the subject of the suit;

5-28 (B) the person's previous knowledge of a party to
 5-29 the suit or a child who is the subject of the suit is not relevant;

5-30 (C) the person does not have a pecuniary
 5-31 relationship with an attorney in the suit; and

5-32 (D) the person does not have a relationship of
 5-33 trust or confidence with an attorney in the suit; or

5-34 (2) the parties and any attorney for a child who is the
 5-35 subject of the suit agree in writing to the person's appointment as
 5-36 the child custody evaluator.

5-37 (c) After being appointed as a child custody evaluator in a
 5-38 suit, a person shall immediately disclose to the court, each
 5-39 attorney for a party to the suit, any attorney for a child who is the
 5-40 subject of the suit, and any party to the suit who does not have an
 5-41 attorney any discovery of:

5-42 (1) a conflict of interest that the person believes
 5-43 the person has with a party to the suit or a child who is the subject
 5-44 of the suit; and

5-45 (2) previous knowledge that the person has of a party
 5-46 to the suit or a child who is the subject of the suit, other than
 5-47 knowledge obtained in a court-ordered evaluation.

5-48 (d) A person shall resign from the person's appointment as a
 5-49 child custody evaluator in a suit if the person makes any of the
 5-50 disclosures in Subsection (c) unless:

5-51 (1) the court finds that:

5-52 (A) the person has no conflict of interest with a
 5-53 party to the suit or a child who is the subject of the suit; and

5-54 (B) the person's previous knowledge of a party to
 5-55 the suit or a child who is the subject of the suit is not relevant;

5-56 or

5-57 (2) the parties and any attorney for a child who is the
 5-58 subject of the suit agree in writing to the person's continued
 5-59 appointment as the child custody evaluator.

5-60 (e) A child custody ~~[social study]~~ evaluator who has
 5-61 previously conducted a child custody evaluation ~~[social study]~~ for
 5-62 a suit may conduct all subsequent evaluations in the suit unless the
 5-63 court finds that the evaluator is biased.

5-64 (f) An individual may not be appointed as a child custody
 5-65 evaluator in a suit if the individual has worked in a professional
 5-66 capacity with a party to the suit, a child who is the subject of the
 5-67 suit, or a member of the party's or child's family who is involved in
 5-68 the suit. This subsection does not apply to an individual who has
 5-69 worked in a professional capacity with a party, a child, or a member

6-1 of the party's or child's family only as a teacher of parenting
 6-2 skills in a group setting, with no individualized interaction with
 6-3 any party, the child, any party's family, or the child's family, or
 6-4 as a child custody evaluator who performed a previous evaluation. A
 6-5 child custody evaluator who has worked as a teacher of parenting
 6-6 skills in a group setting that included a party, a child, or another
 6-7 person who will be the subject of an evaluation or has worked as a
 6-8 child custody evaluator for a previous evaluation must notify the
 6-9 court and the attorney of each represented party or, if a party is
 6-10 not represented, the evaluator must notify the party. For purposes
 6-11 of this subsection, "family" has the meaning assigned by Section
 6-12 71.003.

6-13 ~~[(c) This section does not prohibit a court from appointing~~
 6-14 ~~an employee of the Department of Family and Protective Services to~~
 6-15 ~~conduct a social study in a suit in which adoption is requested or~~
 6-16 ~~possession of or access to a child is an issue and in which the~~
 6-17 ~~department is a party or has an interest.]~~

6-18 SECTION 1.09. Section 107.0513, Family Code, is
 6-19 redesignated as Section 107.108, Family Code, and amended to read
 6-20 as follows:

6-21 Sec. 107.108 [107.0513]. GENERAL PROVISIONS APPLICABLE TO
 6-22 CONDUCT OF CHILD CUSTODY EVALUATION [~~SOCIAL STUDY~~] AND PREPARATION
 6-23 OF REPORT. (a) Unless otherwise directed by a court or prescribed
 6-24 by a provision of this title, a child custody [~~social study~~]
 6-25 evaluator's actions in conducting a child custody evaluation must
 6-26 [~~social study shall~~] be in conformance with the professional
 6-27 standard of care applicable to the evaluator's licensure and any
 6-28 administrative rules, ethical standards, or guidelines adopted by
 6-29 the licensing authority [~~state agency~~] that licenses the evaluator.

6-30 (b) A [~~In addition to the requirements prescribed by this~~
 6-31 ~~subchapter, a~~] court may impose requirements or adopt local rules
 6-32 applicable to a child custody evaluation [~~social study~~] or a child
 6-33 custody [~~social study~~] evaluator that do not conflict with this
 6-34 subchapter.

6-35 (c) A child custody [~~social study~~] evaluator shall follow
 6-36 evidence-based practice methods and make use of current best
 6-37 evidence in making assessments and recommendations.

6-38 (d) A child custody [~~social study~~] evaluator shall disclose
 6-39 to each attorney of record any communication regarding a
 6-40 substantive issue between the evaluator and an attorney of record
 6-41 representing a party in a contested [~~disputed~~] suit. This
 6-42 subsection does not apply to a communication between a child
 6-43 custody [~~social study~~] evaluator and an attorney ad litem or amicus
 6-44 attorney.

6-45 (e) To the extent possible, a child custody [~~social study~~]
 6-46 evaluator shall verify each statement of fact pertinent to a child
 6-47 custody evaluation [~~social study~~] and shall note the sources of
 6-48 verification and information in the child custody evaluation report
 6-49 prepared under Section 107.113.

6-50 (f) A child custody [~~social study~~] evaluator shall state the
 6-51 basis for the evaluator's conclusions or recommendations, and the
 6-52 extent to which information obtained limits the reliability and
 6-53 validity of the opinion and the conclusions and recommendations of
 6-54 the evaluator, in the child custody evaluation report prepared
 6-55 under Section 107.113. A child custody [~~social study~~] evaluator
 6-56 who has evaluated only one side of a contested suit [~~disputed case~~]
 6-57 shall refrain from making a recommendation regarding
 6-58 conservatorship of a child or possession of or access to a child,
 6-59 but may state whether any information obtained regarding a child's
 6-60 placement with a party indicates concerns for:

6-61 (1) the safety of the child;
 6-62 (2) the party's parenting skills or capability;
 6-63 (3) the party's relationship with the child; or
 6-64 (4) the mental health of the party [~~the party~~
 6-65 ~~evaluated appears to be suitable for conservatorship~~].

6-66 (g) A child custody evaluation [~~Each social study subject to~~
 6-67 ~~this subchapter~~] must be conducted in compliance with this
 6-68 subchapter, regardless of whether the child custody evaluation
 6-69 [~~study~~] is conducted:

7-1 (1) by a single child custody [~~social study~~] evaluator
7-2 or multiple evaluators working separately or together; or
7-3 (2) within a county served by the court with
7-4 continuing jurisdiction or at a geographically distant location.

7-5 (h) A child custody evaluation [~~social study~~] report must
7-6 include for each child custody evaluator who conducted any portion
7-7 of the child custody evaluation:

7-8 (1) the name and [~~and~~] license number of the child
7-9 custody evaluator; [~~and~~]

7-10 (2) a statement that the child custody evaluator:
7-11 (A) has read and meets the requirements of [~~basis~~
7-12 ~~for qualification under~~] Section 107.104; or

7-13 (B) was appointed under Section 107.106
7-14 [~~107.0511 of each social study evaluator who conducted any portion~~
7-15 ~~of the social study~~].

7-16 SECTION 1.10. Section 107.0514, Family Code, is
7-17 redesignated as Section 107.109, Family Code, and amended to read
7-18 as follows:

7-19 Sec. 107.109 [~~107.0514~~]. ELEMENTS OF CHILD CUSTODY
7-20 EVALUATION [~~SOCIAL STUDY~~]. (a) A child custody evaluator may not
7-21 offer an opinion regarding conservatorship of a child who is the
7-22 subject of a suit or possession of or access to the child unless
7-23 each basic element of a child custody evaluation as described by
7-24 this section has been completed.

7-25 (b) A child custody evaluator shall:

7-26 (1) identify in the report required by Section 107.113
7-27 any basic element or any additional element of a child custody
7-28 evaluation described by this section that was not completed;

7-29 (2) explain the reasons the element was not completed;
7-30 and

7-31 (3) include an explanation of the likely effect of the
7-32 missing element on the confidence the child custody evaluator has
7-33 in the evaluator's expert opinion.

7-34 (c) The basic elements of a child custody evaluation [~~social~~
7-35 ~~study~~] under this subchapter consist of:

7-36 (1) a personal interview of each party to the suit;

7-37 (2) interviews [~~an interview~~], conducted in a
7-38 developmentally appropriate manner, of each child who is the
7-39 subject of [~~at issue in~~] the suit, regardless of the age of the
7-40 child, during a period of possession of each party to the suit but
7-41 outside the presence of the party [~~who is at least four years of~~
7-42 ~~age~~];

7-43 (3) observation of each child who is the subject of [~~at~~
7-44 ~~issue in~~] the suit, regardless of the age of the child, in the
7-45 presence of each party to the suit, including, as appropriate,
7-46 during supervised visitation, unless contact between a party and a
7-47 child is prohibited by court order or the person conducting the
7-48 evaluation has good cause for not conducting the observation and
7-49 states the good cause in writing provided to the parties to the suit
7-50 before the completion of the evaluation;

7-51 (4) an observation and, if the child is at least four
7-52 years old, an interview of any child who is not a subject of the suit
7-53 who lives on a full-time basis in a residence that is the subject of
7-54 the evaluation, including with other children or parties who are
7-55 subjects of the evaluation, where appropriate;

7-56 (5) the obtaining of information from relevant
7-57 collateral sources, including the review of:

7-58 (A) relevant school records;

7-59 (B) relevant physical and mental health records
7-60 of each party to the suit and each child who is the subject of the
7-61 suit;

7-62 (C) relevant records of the department obtained
7-63 under Section 107.111;

7-64 (D) criminal history record information relating
7-65 to each child who is the subject of the suit, each party to the suit,
7-66 and each person who lives with a party to the suit; and

7-67 (E) any other collateral source that may have
7-68 relevant information;

7-69 (6) [~~45~~] evaluation of the home environment of each

8-1 party seeking conservatorship of a child who is the subject of ~~[at~~
8-2 ~~issue in]~~ the suit or possession of or access to the child, unless
8-3 the condition of the home environment is identified as not being in
8-4 dispute in the court order requiring the child custody evaluation
8-5 ~~[social study];~~

8-6 (7) [(6)] for each individual residing in a residence
8-7 subject to the child custody evaluation ~~[social study]~~,
8-8 consideration of any criminal history record information and any
8-9 contact with the department ~~[Department of Family and Protective~~
8-10 ~~Services]~~ or a law enforcement agency regarding abuse or neglect;
8-11 and

8-12 (8) [(7)] assessment of the relationship between each
8-13 child who is the subject of ~~[at issue in]~~ the suit and each party
8-14 seeking possession of or access to the child.

8-15 (d) [(b)] The additional elements of a child custody
8-16 evaluation ~~[social study]~~ under this subchapter consist of:

8-17 (1) balanced interviews and observations
8-18 ~~[observation]~~ of each child who is the subject of ~~[at issue in]~~ the
8-19 suit so that a child who is interviewed or observed while in the
8-20 care of one party to the suit is also interviewed or observed while
8-21 in the care of each other party to the suit;

8-22 (2) an interview of each individual, including a child
8-23 who is at least four years of age, residing on a full-time or
8-24 part-time basis in a residence subject to the child custody
8-25 evaluation ~~[social study]; [and]~~

8-26 (3) evaluation of the home environment of each party
8-27 seeking conservatorship of a child who is the subject of ~~[at issue~~
8-28 ~~in]~~ the suit or possession of or access to the child, regardless of
8-29 whether the home environment is in dispute;

8-30 (4) observation of a child who is the subject of the
8-31 suit with each adult who lives in a residence that is the subject of
8-32 the evaluation;

8-33 (5) an interview, if the child is at least four years
8-34 of age, and observation of a child who is not the subject of the suit
8-35 but who lives on a full-time or part-time basis in a residence that
8-36 is the subject of the evaluation;

8-37 (6) psychometric testing, if necessary, consistent
8-38 with Section 107.110; and

8-39 (7) the performance of other tasks requested of the
8-40 evaluator by the court, including:

8-41 (A) a joint interview of the parties to the suit;

8-42 or
8-43 (B) the review of any other information that the
8-44 court determines is relevant.

8-45 ~~[(c) A social study evaluator may not offer an opinion~~
8-46 ~~regarding conservatorship of a child at issue in a suit or~~
8-47 ~~possession of or access to the child unless each basic element of a~~
8-48 ~~social study under Subsection (a) has been completed. A social~~
8-49 ~~study evaluator shall identify in the report any additional element~~
8-50 ~~of a social study under Subsection (b) that was not completed and~~
8-51 ~~shall explain the reasons that the element was not completed.]~~

8-52 SECTION 1.11. Subchapter D, Chapter 107, Family Code, is
8-53 amended by adding Section 107.110 to read as follows:

8-54 Sec. 107.110. PSYCHOMETRIC TESTING. (a) A child custody
8-55 evaluator may conduct psychometric testing as part of a child
8-56 custody evaluation if:

8-57 (1) ordered by the court or determined necessary by
8-58 the child custody evaluator; and

8-59 (2) the child custody evaluator is:

8-60 (A) appropriately licensed and trained to
8-61 administer and interpret the specific psychometric tests selected;
8-62 and

8-63 (B) trained in the specialized forensic
8-64 application of psychometric testing.

8-65 (b) Selection of a specific psychometric test is at the
8-66 professional discretion of the child custody evaluator based on the
8-67 specific issues raised in the suit.

8-68 (c) A child custody evaluator may only use psychometric
8-69 tests if the evaluator is familiar with the reliability,

9-1 validation, and related standardization or outcome studies of, and
 9-2 proper applications and use of, the tests within a forensic
 9-3 setting.

9-4 (d) If a child custody evaluator considers psychometric
 9-5 testing necessary but lacks specialized training or expertise to
 9-6 use the specific tests under this section, the evaluator may
 9-7 designate a licensed psychologist to conduct the testing.

9-8 SECTION 1.12. Subchapter D, Chapter 107, Family Code, is
 9-9 amended by adding Section 107.1101 to read as follows:

9-10 Sec. 107.1101. EFFECT OF POTENTIALLY UNDIAGNOSED SERIOUS
 9-11 MENTAL ILLNESS. (a) In this section, "serious mental illness" has
 9-12 the meaning assigned by Section 1355.001, Insurance Code.

9-13 (b) If a child custody evaluator identifies the presence of
 9-14 a potentially undiagnosed serious mental illness experienced by an
 9-15 individual who is a subject of the child custody evaluation and the
 9-16 evaluator is not qualified by the evaluator's licensure,
 9-17 experience, and training to assess a serious mental illness, the
 9-18 evaluator shall make one or more appropriate referrals for a mental
 9-19 examination of the individual.

9-20 (c) The child custody evaluation report must include any
 9-21 information that the evaluator considers appropriate under the
 9-22 circumstances regarding the possible effects of an individual's
 9-23 potentially undiagnosed serious mental illness on the evaluation
 9-24 and the evaluator's recommendations.

9-25 SECTION 1.13. Section 107.05145, Family Code, is
 9-26 redesignated as Section 107.111, Family Code, and amended to read
 9-27 as follows:

9-28 Sec. 107.111 [107.05145]. CHILD CUSTODY [SOCIAL STUDY]
 9-29 EVALUATOR ACCESS TO INVESTIGATIVE RECORDS OF DEPARTMENT [OF FAMILY
 9-30 AND PROTECTIVE SERVICES]; OFFENSE. (a) A child custody [social
 9-31 study] evaluator appointed by a court is entitled to obtain from the
 9-32 department [Department of Family and Protective Services] a
 9-33 complete, unredacted copy of any investigative record regarding
 9-34 abuse or neglect that relates to any person residing in the
 9-35 residence subject to the child custody evaluation [social study].

9-36 (b) Except as provided by this section, records obtained by
 9-37 a child custody [social study] evaluator from the department
 9-38 [Department of Family and Protective Services] under this section
 9-39 are confidential and not subject to disclosure under Chapter 552,
 9-40 Government Code, or to disclosure in response to a subpoena or a
 9-41 discovery request.

9-42 (c) A child custody [social study] evaluator may disclose
 9-43 information obtained under Subsection (a) in the child custody
 9-44 evaluation [social study] report prepared under Section 107.113
 9-45 only to the extent the evaluator determines that the information is
 9-46 relevant to the child custody evaluation [social study] or a
 9-47 recommendation made under this subchapter.

9-48 (d) A person commits an offense if the person recklessly
 9-49 discloses confidential information obtained from the department
 9-50 [Department of Family and Protective Services] in violation of this
 9-51 section. An offense under this subsection is a Class A misdemeanor.

9-52 SECTION 1.14. Subchapter D, Chapter 107, Family Code, is
 9-53 amended by adding Section 107.112 to read as follows:

9-54 Sec. 107.112. COMMUNICATIONS AND RECORDKEEPING OF CHILD
 9-55 CUSTODY EVALUATOR. (a) Notwithstanding any rule, standard of
 9-56 care, or privilege applicable to the professional license held by a
 9-57 child custody evaluator, a communication made by a participant in a
 9-58 child custody evaluation is subject to disclosure and may be
 9-59 offered in any judicial or administrative proceeding if otherwise
 9-60 admissible under the rules of evidence.

9-61 (b) A child custody evaluator shall:

9-62 (1) keep a detailed record of interviews that the
 9-63 evaluator conducts, observations that the evaluator makes, and
 9-64 substantive interactions that the evaluator has as part of a child
 9-65 custody evaluation; and

9-66 (2) maintain the evaluator's records consistent with
 9-67 applicable laws, including rules applicable to the evaluator's
 9-68 license.

9-69 (c) Except for records obtained from the department in

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

10-10 (d) Except for records obtained from the department in
 10-11 accordance with Section 107.111, records relating to a child
 10-12 custody evaluation conducted by an employee of or contractor with a
 10-13 domestic relations office shall, after completion of the evaluation
 10-14 and the preparation and filing of a child custody evaluation report
 10-15 under Section 107.113, be made available on written request
 10-16 according to the local rules and policies of the office.

10-17 (e) A person maintaining records subject to disclosure
 10-18 under this section may charge a reasonable fee for producing the
 10-19 records before copying the records.

10-20 (f) A private child custody evaluator shall retain all
 10-21 records relating to a child custody evaluation conducted by the
 10-22 evaluator until the ending date of the retention period adopted by
 10-23 the licensing authority that issues the professional license held
 10-24 by the evaluator based on the date the evaluator filed the child
 10-25 custody evaluation report prepared under this section with the
 10-26 court.

10-27 (g) A domestic relations office shall retain records
 10-28 relating to a child custody evaluation conducted by a child custody
 10-29 evaluator acting as an employee of or contractor with the office for
 10-30 the retention period established by the office.

10-31 (h) A person who participates in a child custody evaluation
 10-32 is not a patient as that term is defined by Section 611.001(1),
 10-33 Health and Safety Code.

10-34 SECTION 1.15. Section 107.054, Family Code, is redesignated
 10-35 as Section 107.113, Family Code, and amended to read as follows:

10-36 Sec. 107.113 [107.054]. CHILD CUSTODY EVALUATION REPORT
 10-37 REQUIRED [~~FILED WITH COURT~~]. (a) A child custody evaluator who
 10-38 conducts a child custody evaluation shall prepare and file a report
 10-39 containing the evaluator's findings, opinions, recommendations,
 10-40 and answers to specific questions asked by the court relating to the
 10-41 evaluation.

10-42 (b) The [~~agency or~~] person conducting a child custody
 10-43 evaluation [~~making the social study~~] shall file with the court on a
 10-44 date set by the court a report containing the person's [~~its~~]
 10-45 findings and conclusions. The report shall be made a part of the
 10-46 record of the suit.

10-47 (c) If the suit is settled before completion of the child
 10-48 custody evaluation report, the report under this section is not
 10-49 required.

10-50 (d) A report prepared under this section must include the
 10-51 information required by Section 107.108(h) for each child custody
 10-52 evaluator who conducted any portion of the evaluation.

10-53 SECTION 1.16. Section 107.055, Family Code, is redesignated
 10-54 as Section 107.114, Family Code, and amended to read as follows:

10-55 Sec. 107.114 [107.055]. INTRODUCTION AND PROVISION OF
 10-56 CHILD CUSTODY EVALUATION REPORT [~~AT TRIAL~~]. (a) Disclosure to the
 10-57 jury of the contents of a child custody evaluation report prepared
 10-58 under Section 107.113 [~~to the court of a social study~~] is subject to
 10-59 the rules of evidence.

10-60 (b) Unless the court has rendered an order restricting
 10-61 disclosure, a private child custody evaluator shall provide to the
 10-62 attorneys of the parties to a suit, any party who does not have an
 10-63 attorney, and any other person appointed by the court under this
 10-64 chapter in a suit a copy [~~In a contested case, the agency or person~~
 10-65 ~~making the social study shall furnish copies~~] of the child custody
 10-66 evaluation report [~~to the attorneys for the parties~~] before the
 10-67 earlier of:

10-68 (1) the third [~~seventh~~] day after the date the child
 10-69 custody evaluation report [~~social study~~] is completed; or

11-1 (2) the 30th [~~5th~~] day before the date of
11-2 commencement of the trial.

11-3 (c) A child custody evaluator who conducts a child custody
11-4 evaluation as an employee of or under contract with a domestic
11-5 relations office shall provide to the attorneys of the parties to a
11-6 suit and any person appointed in the suit under this chapter a copy
11-7 of the child custody evaluation report before the earlier of:

11-8 (1) the seventh day after the date the child custody
11-9 evaluation report is completed; or

11-10 (2) the fifth day before the date the trial commences.

11-11 (d) A child custody evaluator who conducts a child custody
11-12 evaluation as an employee of or under contract with a domestic
11-13 relations office shall provide a copy of the report to a party to
11-14 the suit as provided by the local rules and policies of the office
11-15 or by a court order [~~The court may compel the attendance of~~
11-16 ~~witnesses necessary for the proper disposition of the suit,~~
11-17 ~~including a representative of the agency making the social study,~~
11-18 ~~who may be compelled to testify].~~

11-19 SECTION 1.17. Section 107.056, Family Code, is redesignated
11-20 as Section 107.115, Family Code, and amended to read as follows:

11-21 Sec. 107.115 [107.056]. CHILD CUSTODY EVALUATION
11-22 [PREPARATION] FEE. If the court orders a child custody evaluation
11-23 [social study] to be conducted, the court shall award the [~~agency or~~
11-24 ~~other~~] person appointed as the child custody evaluator a reasonable
11-25 fee for the preparation of the child custody evaluation [~~study~~]
11-26 that shall be imposed in the form of a money judgment and paid
11-27 directly to the [~~agency or other~~] person. The person [~~or agency~~]
11-28 may enforce the judgment for the fee by any means available under
11-29 law for civil judgments.

11-30 SECTION 1.18. Chapter 107, Family Code, is amended by
11-31 adding Subchapters E and F to read as follows:

11-32 SUBCHAPTER E. ADOPTION EVALUATION

11-33 Sec. 107.151. DEFINITIONS. In this subchapter:

11-34 (1) "Adoption evaluation" means a pre-placement or
11-35 post-placement evaluative process through which information and
11-36 recommendations regarding adoption of a child may be made to the
11-37 court, the parties, and the parties' attorneys.

11-38 (2) "Adoption evaluator" means a person who conducts
11-39 an adoption evaluation under this subchapter.

11-40 (3) "Department" means the Department of Family and
11-41 Protective Services.

11-42 (4) "Supervision" means directing, regularly
11-43 reviewing, and meeting with a person with respect to the completion
11-44 of work for which the supervisor is responsible for the outcome.
11-45 The term does not require the constant physical presence of the
11-46 person providing supervision and may include telephonic or other
11-47 electronic communication.

11-48 Sec. 107.152. APPLICABILITY. (a) For purposes of this
11-49 subchapter, an adoption evaluation does not include services
11-50 provided in accordance with the Interstate Compact on the Placement
11-51 of Children adopted under Subchapter B, Chapter 162, or an
11-52 evaluation conducted in accordance with Section 262.114 by an
11-53 employee of or contractor with the department.

11-54 (b) This subchapter does not apply to the pre-placement and
11-55 post-placement parts of an adoption evaluation conducted by a
11-56 licensed child-placing agency or the department.

11-57 (c) The pre-placement and post-placement parts of an
11-58 adoption evaluation conducted by a licensed child-placing agency or
11-59 the department are governed by rules adopted by the executive
11-60 commissioner of the Health and Human Services Commission.

11-61 (d) In a suit involving a licensed child-placing agency or
11-62 the department, a licensed child-placing agency or the department
11-63 shall conduct the pre-placement and post-placement parts of the
11-64 adoption evaluation and file reports on those parts with the court
11-65 before the court renders a final order of adoption.

11-66 (e) A court may appoint the department to conduct the
11-67 pre-placement and post-placement parts of an adoption evaluation in
11-68 a suit only if the department is:

11-69 (1) a party to the suit; or

12-1 (2) the managing conservator of the child who is the
 12-2 subject of the suit.

12-3 Sec. 107.153. ORDER FOR ADOPTION EVALUATION. (a) The
 12-4 court shall order the performance of an adoption evaluation to
 12-5 evaluate each party who requests termination of the parent-child
 12-6 relationship or an adoption in a suit for:

12-7 (1) termination of the parent-child relationship in
 12-8 which a person other than a parent may be appointed managing
 12-9 conservator of a child; or

12-10 (2) an adoption.

12-11 (b) The adoption evaluation required under Subsection (a)
 12-12 must include an evaluation of the circumstances and the condition
 12-13 of the home and social environment of any person requesting to adopt
 12-14 a child who is at issue in the suit.

12-15 (c) The court may appoint a qualified individual, a
 12-16 qualified private entity, or a domestic relations office to conduct
 12-17 the adoption evaluation.

12-18 (d) Except as provided by Section 107.155, a person who
 12-19 conducts an adoption evaluation must meet the requirements of
 12-20 Section 107.154.

12-21 (e) The costs of an adoption evaluation under this section
 12-22 shall be paid by the prospective adoptive parent.

12-23 Sec. 107.154. ADOPTION EVALUATOR: MINIMUM QUALIFICATIONS.

12-24 (a) In this section:

12-25 (1) "Full-time experience" means a period during which
 12-26 a person works at least 30 hours per week.

12-27 (2) "Human services field of study" means a field of
 12-28 study designed to prepare a person in the disciplined application
 12-29 of counseling, family therapy, psychology, or social work values,
 12-30 principles, and methods.

12-31 (b) To be qualified to conduct an adoption evaluation under
 12-32 this subchapter, a person must:

12-33 (1) have a degree from an accredited college or
 12-34 university in a human services field of study and a license to
 12-35 practice in this state as a social worker, professional counselor,
 12-36 marriage and family therapist, or psychologist and:

12-37 (A) have one year of full-time experience working
 12-38 at a child-placing agency conducting child-placing activities; or

12-39 (B) be practicing under the direct supervision of
 12-40 a person qualified under this section to conduct adoption
 12-41 evaluations;

12-42 (2) be employed by a domestic relations office,
 12-43 provided that the person conducts adoption evaluations relating
 12-44 only to families ordered to participate in adoption evaluations
 12-45 conducted by the domestic relations office; or

12-46 (3) be qualified as a child custody evaluator under
 12-47 Section 107.104.

12-48 (c) In addition to the other qualifications prescribed by
 12-49 this section, an individual must complete at least eight hours of
 12-50 family violence dynamics training provided by a family violence
 12-51 service provider to be qualified to conduct an adoption evaluation
 12-52 under this subchapter.

12-53 Sec. 107.155. EXCEPTION TO QUALIFICATIONS REQUIRED TO
 12-54 CONDUCT ADOPTION EVALUATION. (a) In a county with a population of
 12-55 less than 500,000, if a court finds that an individual who meets the
 12-56 requirements of Section 107.154 is not available in the county to
 12-57 conduct an adoption evaluation in a timely manner, the court, after
 12-58 notice and hearing, may appoint a person the court determines to be
 12-59 otherwise qualified to conduct the evaluation.

12-60 (b) An individual appointed under this section shall comply
 12-61 with all provisions of this subchapter, other than Section 107.154.

12-62 Sec. 107.156. ADOPTION EVALUATOR: CONFLICTS OF INTEREST AND
 12-63 BIAS. (a) Before accepting appointment as an adoption evaluator
 12-64 in a suit, a person must disclose to the court, each attorney for a
 12-65 party to the suit, any attorney for a child who is the subject of the
 12-66 suit, and any party to the suit who does not have an attorney:

12-67 (1) any conflict of interest that the person believes
 12-68 the person has with a party to the suit or a child who is the subject
 12-69 of the suit;

13-1 (2) any previous knowledge that the person has of a
 13-2 party to the suit or a child who is the subject of the suit;

13-3 (3) any pecuniary relationship that the person
 13-4 believes the person has with an attorney in the suit;

13-5 (4) any relationship of confidence or trust that the
 13-6 person believes the person has with an attorney in the suit; and

13-7 (5) any other information relating to the person's
 13-8 relationship with an attorney in the suit that a reasonable,
 13-9 prudent person would believe would affect the ability of the person
 13-10 to act impartially in conducting an adoption evaluation.

13-11 (b) The court may not appoint a person as an adoption
 13-12 evaluator in a suit if the person makes any of the disclosures in
 13-13 Subsection (a) unless:

13-14 (1) the court finds that:

13-15 (A) the person has no conflict of interest with a
 13-16 party to the suit or a child who is the subject of the suit;

13-17 (B) the person's previous knowledge of a party to
 13-18 the suit or a child who is the subject of the suit is not relevant;

13-19 (C) the person does not have a pecuniary
 13-20 relationship with an attorney in the suit; and

13-21 (D) the person does not have a relationship of
 13-22 trust or confidence with an attorney in the suit; or

13-23 (2) the parties and any attorney for a child who is the
 13-24 subject of the suit agree in writing to the person's appointment as
 13-25 the adoption evaluator.

13-26 (c) After being appointed as an adoption evaluator in a
 13-27 suit, a person shall immediately disclose to the court, each
 13-28 attorney for a party to the suit, any attorney for a child who is the
 13-29 subject of the suit, and any party to the suit who does not have an
 13-30 attorney any discovery of:

13-31 (1) a conflict of interest that the person believes
 13-32 the person has with a party to the suit or a child who is the subject
 13-33 of the suit; and

13-34 (2) previous knowledge that the person has of a party
 13-35 to the suit or a child who is the subject of the suit, other than
 13-36 knowledge obtained in a court-ordered evaluation.

13-37 (d) A person shall resign from the person's appointment as
 13-38 an adoption evaluator in a suit if the person makes any of the
 13-39 disclosures in Subsection (c) unless:

13-40 (1) the court finds that:

13-41 (A) the person has no conflict of interest with a
 13-42 party to the suit or a child who is the subject of the suit; and

13-43 (B) the person's previous knowledge of a party to
 13-44 the suit or a child who is the subject of the suit is not relevant;
 13-45 or

13-46 (2) the parties and any attorney for a child who is the
 13-47 subject of the suit agree in writing to the person's continued
 13-48 appointment as the adoption evaluator.

13-49 (e) An individual may not be appointed as an adoption
 13-50 evaluator in a suit if the individual has worked in a professional
 13-51 capacity with a party to the suit, a child who is the subject of the
 13-52 suit, or a member of the party's or child's family who is involved in
 13-53 the suit. This subsection does not apply to an individual who has
 13-54 worked in a professional capacity with a party, a child, or a member
 13-55 of the party's or child's family only as a teacher of parenting
 13-56 skills in a group setting, with no individualized interaction with
 13-57 any party, the child, any party's family, or the child's family, or
 13-58 as a child custody evaluator or adoption evaluator who performed a
 13-59 previous evaluation. For purposes of this subsection, "family" has
 13-60 the meaning assigned by Section 71.003.

13-61 Sec. 107.157. REPORTING CERTAIN PLACEMENTS FOR ADOPTION.
 13-62 An adoption evaluator shall report to the department any adoptive
 13-63 placement that appears to have been made by someone other than a
 13-64 licensed child-placing agency or a child's parent or managing
 13-65 conservator.

13-66 Sec. 107.158. GENERAL PROVISIONS APPLICABLE TO CONDUCT OF
 13-67 ADOPTION EVALUATOR AND PREPARATION OF REPORTS. (a) Unless
 13-68 otherwise directed by a court or prescribed by this subchapter, an
 13-69 adoption evaluator's actions in conducting an adoption evaluation

14-1 must be in conformance with the professional standard of care
 14-2 applicable to the evaluator's licensure and any administrative
 14-3 rules, ethical standards, or guidelines adopted by the licensing
 14-4 authority that licenses the evaluator.

14-5 (b) A court may impose requirements or adopt local rules
 14-6 applicable to an adoption evaluation or an adoption evaluator that
 14-7 do not conflict with this subchapter.

14-8 (c) An adoption evaluator shall follow evidence-based
 14-9 practice methods and make use of current best evidence in making
 14-10 assessments and recommendations.

14-11 (d) An adoption evaluator shall disclose to each attorney of
 14-12 record any communication regarding a substantive issue between the
 14-13 evaluator and an attorney of record representing a party in a
 14-14 contested suit. This subsection does not apply to a communication
 14-15 between an adoption evaluator and an amicus attorney.

14-16 (e) To the extent possible, an adoption evaluator shall
 14-17 verify each statement of fact pertinent to an adoption evaluation
 14-18 and shall note the sources of verification and information in any
 14-19 report prepared on the evaluation.

14-20 (f) An adoption evaluator shall state the basis for the
 14-21 evaluator's conclusions or recommendations in any report prepared
 14-22 on the evaluation.

14-23 (g) An adoption evaluation report must include for each
 14-24 adoption evaluator who conducted any portion of the adoption
 14-25 evaluation:

14-26 (1) the name and license number of the adoption
 14-27 evaluator; and

14-28 (2) a statement that the adoption evaluator:
 14-29 (A) has read and meets the requirements of
 14-30 Section 107.154; or

14-31 (B) was appointed under Section 107.155.

14-32 Sec. 107.159. REQUIREMENTS FOR PRE-PLACEMENT PORTION OF
 14-33 ADOPTION EVALUATION AND REPORT. (a) Unless otherwise agreed to by
 14-34 the court, the pre-placement part of an adoption evaluation must
 14-35 comply with the minimum requirements for the pre-placement part of
 14-36 an adoption evaluation under rules adopted by the executive
 14-37 commissioner of the Health and Human Services Commission.

14-38 (b) Unless a child who is the subject of the suit begins to
 14-39 reside in a prospective adoptive home before the suit is commenced,
 14-40 an adoption evaluator shall file with the court a report containing
 14-41 the evaluator's findings and conclusions made after completion of
 14-42 the pre-placement portion of the adoption evaluation.

14-43 (c) In a suit filed after the date a child who is the subject
 14-44 of the suit begins to reside in a prospective adoptive home, the
 14-45 report required under this section and the post-placement adoption
 14-46 evaluation report required under Section 107.160 may be combined in
 14-47 a single report.

14-48 (d) The report required under this section must be filed
 14-49 with the court before the court may sign the final order for
 14-50 termination of the parent-child relationship. The report shall be
 14-51 included in the record of the suit.

14-52 (e) A copy of the report prepared under this section must be
 14-53 made available to the prospective adoptive parents before the court
 14-54 renders a final order of adoption.

14-55 Sec. 107.160. REQUIREMENTS FOR POST-PLACEMENT PORTION OF
 14-56 ADOPTION EVALUATION AND REPORT. (a) Unless otherwise agreed to by
 14-57 the court, the post-placement part of an adoption evaluation must
 14-58 comply with the minimum requirements for the post-placement part of
 14-59 an adoption evaluation under rules adopted by the executive
 14-60 commissioner of the Health and Human Services Commission.

14-61 (b) An adoption evaluator shall file with the court a report
 14-62 containing the evaluator's findings and conclusions made after a
 14-63 child who is the subject of the suit in which the evaluation is
 14-64 ordered begins to reside in a prospective adoptive home.

14-65 (c) The report required under this section must be filed
 14-66 with the court before the court renders a final order of adoption.
 14-67 The report shall be included in the record of the suit.

14-68 (d) A copy of the report prepared under this section must be
 14-69 made available to the prospective adoptive parents before the court

15-1 renders a final order of adoption.

15-2 Sec. 107.161. INTRODUCTION AND PROVISION OF ADOPTION
 15-3 EVALUATION REPORT AND TESTIMONY RELATING TO ADOPTION EVALUATION.

15-4 (a) Disclosure to the jury of the contents of an adoption
 15-5 evaluation report prepared under Section 107.159 or 107.160 is
 15-6 subject to the rules of evidence.

15-7 (b) The court may compel the attendance of witnesses
 15-8 necessary for the proper disposition of a suit, including a
 15-9 representative of an agency that conducts an adoption evaluation,
 15-10 who may be compelled to testify.

15-11 Sec. 107.162. ADOPTION EVALUATION FEE. If the court orders
 15-12 an adoption evaluation to be conducted, the court shall award the
 15-13 adoption evaluator a reasonable fee for the preparation of the
 15-14 evaluation that shall be imposed in the form of a money judgment and
 15-15 paid directly to the evaluator. The evaluator may enforce the
 15-16 judgment for the fee by any means available under law for civil
 15-17 judgments.

15-18 Sec. 107.163. ADOPTION EVALUATOR ACCESS TO INVESTIGATIVE
 15-19 RECORDS OF DEPARTMENT; OFFENSE. (a) An adoption evaluator is
 15-20 entitled to obtain from the department a complete, unredacted copy
 15-21 of any investigative record regarding abuse or neglect that relates
 15-22 to any person residing in the residence subject to the adoption
 15-23 evaluation.

15-24 (b) Except as provided by this section, records obtained by
 15-25 an adoption evaluator from the department under this section are
 15-26 confidential and not subject to disclosure under Chapter 552,
 15-27 Government Code, or to disclosure in response to a subpoena or a
 15-28 discovery request.

15-29 (c) An adoption evaluator may disclose information obtained
 15-30 under Subsection (a) in the adoption evaluation report prepared
 15-31 under Section 107.159 or 107.160 only to the extent the evaluator
 15-32 determines that the information is relevant to the adoption
 15-33 evaluation or a recommendation made under this subchapter.

15-34 (d) A person commits an offense if the person recklessly
 15-35 discloses confidential information obtained from the department in
 15-36 violation of this section. An offense under this subsection is a
 15-37 Class A misdemeanor.

15-38 SUBCHAPTER F. EVALUATIONS IN CONTESTED ADOPTIONS

15-39 Sec. 107.201. APPLICABILITY. This subchapter does not
 15-40 apply to services provided in accordance with the Interstate
 15-41 Compact on the Placement of Children adopted under Subchapter B,
 15-42 Chapter 162, to an evaluation conducted in accordance with Section
 15-43 [262.114](#) by an employee of or contractor with the department, or to a
 15-44 suit in which the Department of Family and Protective Services is a
 15-45 party.

15-46 Sec. 107.202. ASSIGNMENT OF EVALUATIONS IN CONTESTED
 15-47 ADOPTIONS. (a) In a suit in which the adoption of a child is being
 15-48 contested, the court shall determine the nature of the questions
 15-49 posed before appointing an evaluator to conduct either a child
 15-50 custody evaluation or an adoption evaluation.

15-51 (b) If the court is attempting to determine whether
 15-52 termination of parental rights is in the best interest of a child
 15-53 who is the subject of the suit, the court shall order the evaluation
 15-54 as a child custody evaluation under Subchapter D and include
 15-55 termination as one of the specific issues to be addressed in the
 15-56 evaluation.

15-57 (c) When appointing an evaluator to assess the issue of
 15-58 termination of parental rights, the court may, through written
 15-59 order, modify the requirements of the child custody evaluation to
 15-60 take into account the circumstances of the family to be assessed.
 15-61 The court may also appoint the evaluator to concurrently address
 15-62 the requirements for an adoption evaluation under Subchapter E if
 15-63 the evaluator recommends that termination of parental rights is in
 15-64 the best interest of the child who is the subject of the suit.

15-65 (d) If the court is attempting to determine whether the
 15-66 parties seeking adoption would be suitable to adopt the child who is
 15-67 the subject of the suit if the termination of parental rights is
 15-68 granted, but the court is not attempting to determine whether such
 15-69 termination of parental rights is in the child's best interest, the

16-1 court may order the evaluation as an adoption evaluation under
 16-2 Subchapter E.

16-3 ARTICLE 2. TESTIMONY IN SUITS AFFECTING THE PARENT-CHILD
 16-4 RELATIONSHIP

16-5 SECTION 2.01. Chapter 104, Family Code, is amended by
 16-6 adding Section 104.008 to read as follows:

16-7 Sec. 104.008. CERTAIN TESTIMONY PROHIBITED. (a) A person
 16-8 may not offer an expert opinion or recommendation relating to the
 16-9 conservatorship of or possession of or access to a child at issue in
 16-10 a suit unless the person has conducted a child custody evaluation
 16-11 relating to the child under Subchapter D, Chapter 107.

16-12 (b) In a contested suit, a mental health professional may
 16-13 provide other relevant information and opinions, other than those
 16-14 prohibited by Subsection (a), relating to any party that the mental
 16-15 health professional has personally evaluated.

16-16 (c) This section does not apply to a suit in which the
 16-17 Department of Family and Protective Services is a party.

16-18 ARTICLE 3. CONFORMING AMENDMENTS RELATING TO CHILD CUSTODY
 16-19 EVALUATIONS AND ADOPTION EVALUATIONS

16-20 SECTION 3.01. Section 153.605(d), Family Code, is amended
 16-21 to read as follows:

16-22 (d) An individual appointed as a parenting coordinator may
 16-23 not serve in any nonconfidential capacity in the same case,
 16-24 including serving as an amicus attorney, guardian ad litem, child
 16-25 custody [or social study] evaluator, or adoption evaluator under
 16-26 Chapter 107, as a friend of the court under Chapter 202, or as a
 16-27 parenting facilitator under this subchapter.

16-28 SECTION 3.02. Section 162.0025, Family Code, is amended to
 16-29 read as follows:

16-30 Sec. 162.0025. ADOPTION SOUGHT BY MILITARY SERVICE MEMBER.
 16-31 In a suit for adoption, the fact that a petitioner is a member of the
 16-32 armed forces of the United States, a member of the Texas National
 16-33 Guard or the National Guard of another state, or a member of a
 16-34 reserve component of the armed forces of the United States may not
 16-35 be considered by the court, or any person performing an adoption
 16-36 evaluation [a social study] or home screening, as a negative factor
 16-37 in determining whether the adoption is in the best interest of the
 16-38 child or whether the petitioner would be a suitable parent.

16-39 SECTION 3.03. Section 162.003, Family Code, is amended to
 16-40 read as follows:

16-41 Sec. 162.003. ADOPTION EVALUATION [PRE-ADOPTIVE AND
 16-42 POST-PLACEMENT SOCIAL STUDIES]. In a suit for adoption, an
 16-43 adoption evaluation [pre-adoptive and post-placement social
 16-44 studies] must be conducted as provided in Chapter 107.

16-45 SECTION 3.04. Section 162.0045, Family Code, is amended to
 16-46 read as follows:

16-47 Sec. 162.0045. PREFERENTIAL SETTING. The court shall grant
 16-48 a motion for a preferential setting for a final hearing on an
 16-49 adoption and shall give precedence to that hearing over all other
 16-50 civil cases not given preference by other law if the adoption
 16-51 evaluation [social study] has been filed and the criminal history
 16-52 for the person seeking to adopt the child has been obtained.

16-53 SECTION 3.05. Section 203.004(a), Family Code, is amended
 16-54 to read as follows:

16-55 (a) A domestic relations office may:

16-56 (1) collect and disburse child support payments that
 16-57 are ordered by a court to be paid through a domestic relations
 16-58 registry;

16-59 (2) maintain records of payments and disbursements
 16-60 made under Subdivision (1);

16-61 (3) file a suit, including a suit to:

16-62 (A) establish paternity;

16-63 (B) enforce a court order for child support or
 16-64 for possession of and access to a child; and

16-65 (C) modify or clarify an existing child support
 16-66 order;

16-67 (4) provide an informal forum in which alternative
 16-68 dispute resolution is used to resolve disputes under this code;

16-69 (5) prepare a court-ordered child custody evaluation

17-1 or adoption evaluation [~~social study~~] under Chapter 107;

17-2 (6) represent a child as an amicus attorney, an
17-3 attorney ad litem, or a guardian ad litem in a suit in which:

17-4 (A) termination of the parent-child relationship
17-5 is sought; or

17-6 (B) conservatorship of or access to a child is
17-7 contested;

17-8 (7) serve as a friend of the court;

17-9 (8) provide predivorce counseling ordered by a court;

17-10 (9) provide community supervision services under
17-11 Chapter 157;

17-12 (10) provide information to assist a party in
17-13 understanding, complying with, or enforcing the party's duties and
17-14 obligations under Subdivision (3);

17-15 (11) provide, directly or through a contract,
17-16 visitation services, including supervision of court-ordered
17-17 visitation, visitation exchange, or other similar services;

17-18 (12) issue an administrative writ of withholding under
17-19 Subchapter F, Chapter 158; and

17-20 (13) provide parenting coordinator services under
17-21 Chapter 153.

17-22 SECTION 3.06. Section 203.005(a), Family Code, is amended
17-23 to read as follows:

17-24 (a) The administering entity may authorize a domestic
17-25 relations office to assess and collect:

17-26 (1) an initial operations fee not to exceed \$15 to be
17-27 paid to the domestic relations office on each filing of an original
17-28 suit, motion for modification, or motion for enforcement;

17-29 (2) in a county that has a child support enforcement
17-30 cooperative agreement with the Title IV-D agency, an initial child
17-31 support service fee not to exceed \$36 to be paid to the domestic
17-32 relations office on the filing of an original suit;

17-33 (3) a reasonable application fee to be paid by an
17-34 applicant requesting services from the office;

17-35 (4) a reasonable attorney's fee and court costs
17-36 incurred or ordered by the court;

17-37 (5) a monthly service fee not to exceed \$3 to be paid
17-38 annually in advance by a managing conservator and possessory
17-39 conservator for whom the domestic relations office provides child
17-40 support services;

17-41 (6) community supervision fees as provided by Chapter
17-42 157 if community supervision officers are employed by the domestic
17-43 relations office;

17-44 (7) a reasonable fee for preparation of a
17-45 court-ordered child custody evaluation or adoption evaluation
17-46 [~~social study~~];

17-47 (8) in a county that provides visitation services
17-48 under Sections 153.014 and 203.004 a reasonable fee to be paid to
17-49 the domestic relations office at the time the visitation services
17-50 are provided;

17-51 (9) a fee to reimburse the domestic relations office
17-52 for a fee required to be paid under Section 158.503(d) for filing an
17-53 administrative writ of withholding;

17-54 (10) a reasonable fee for parenting coordinator
17-55 services; and

17-56 (11) a reasonable fee for alternative dispute
17-57 resolution services.

17-58 SECTION 3.07. Sections 411.1285(a) and (c), Government
17-59 Code, are amended to read as follows:

17-60 (a) A domestic relations office created under Chapter 203,
17-61 Family Code, is entitled to obtain from the department criminal
17-62 history record information that relates to a person who is a party
17-63 to a proceeding in which the domestic relations office is providing
17-64 services permitted under Chapter 203, Family Code, or a person
17-65 involved in a child custody evaluation under Chapter 107, Family
17-66 Code, in which the domestic relations office has been appointed to
17-67 conduct the child custody evaluation.

17-68 (c) Criminal history record information requested under
17-69 this section, except for relevant [~~including~~] information included

18-1 in a report of a child custody evaluation or adoption evaluation
 18-2 [~~social study~~] filed under Chapter 107 [~~Section 107.054~~], Family
 18-3 Code, may not be released or disclosed by a domestic relations
 18-4 office to a person other than the court ordering the child custody
 18-5 evaluation or adoption evaluation [~~social study~~] except on court
 18-6 order or with the consent of the person who is the subject of the
 18-7 criminal history record information.

18-8 SECTION 3.08. Section [152.06331](#)(f), Human Resources Code,
 18-9 is amended to read as follows:

18-10 (f) Fees for the preparation of a court-ordered child
 18-11 custody evaluation or adoption evaluation [~~social study~~] or any
 18-12 other services provided by the domestic relations office, other
 18-13 than services related to the collection of child support, must be
 18-14 reasonable and imposed on a sliding scale according to the
 18-15 financial resources of the parties using the services.

18-16 ARTICLE 4. REPEALER

18-17 SECTION 4.01. Sections [107.0515](#), [107.0519](#), [107.052](#), and
 18-18 [107.053](#), Family Code, are repealed.

18-19 ARTICLE 5. TRANSITION AND EFFECTIVE DATE

18-20 SECTION 5.01. (a) Not later than March 1, 2016, the Texas
 18-21 State Board of Examiners of Psychologists, the Texas State Board of
 18-22 Examiners of Professional Counselors, the Texas State Board of
 18-23 Social Worker Examiners, the Texas State Board of Examiners of
 18-24 Marriage and Family Therapists, and the Texas Medical Board shall
 18-25 adopt any rules necessary for license holders to comply with the
 18-26 requirements of Subchapter D, Chapter 107, Family Code, as amended
 18-27 by this Act, and Subchapters E and F, Chapter 107, Family Code, as
 18-28 added by this Act, and specifying that a person licensed by any of
 18-29 the boards is subject to the rules of the board that licensed the
 18-30 person when appointed by a court to conduct a child custody
 18-31 evaluation under Subchapter D, Chapter 107, Family Code, as amended
 18-32 by this Act, or adoption evaluation under Subchapter E, Chapter
 18-33 107, Family Code, as added by this Act. The rules adopted under
 18-34 this subsection must:

18-35 (1) specify that any complaint relating to the outcome
 18-36 of a child custody evaluation or adoption evaluation conducted by a
 18-37 person licensed by any of the boards must be reported to the court
 18-38 that ordered the evaluation; and

18-39 (2) require that license holders receive notice that
 18-40 the disclosure of confidential information in violation of Section
 18-41 107.111 or 107.163, Family Code, as added by this Act, is grounds
 18-42 for disciplinary action.

18-43 (b) Subsection (a) of this section does not affect the
 18-44 authority of a licensing agency that issues a license to a child
 18-45 custody evaluator to enforce compliance with state law and
 18-46 administrative rules applicable to the license holder.

18-47 (c) As soon as possible after the effective date of this
 18-48 Act, the Texas State Board of Examiners of Psychologists, the Texas
 18-49 State Board of Examiners of Professional Counselors, and the Texas
 18-50 State Board of Examiners of Marriage and Family Therapists shall
 18-51 adopt rules prohibiting a psychological associate, a licensed
 18-52 specialist in school psychology, a provisionally licensed
 18-53 psychologist, a licensed professional counselor intern, and a
 18-54 licensed marriage and family therapist associate from conducting a
 18-55 child custody evaluation under Subchapter D, Chapter 107, Family
 18-56 Code, as amended by this Act, unless the person is otherwise
 18-57 qualified to conduct the evaluation.

18-58 (d) As soon as possible after the effective date of this
 18-59 Act, the executive commissioner of the Health and Human Services
 18-60 Commission shall adopt rules prohibiting a licensed chemical
 18-61 dependency counselor from conducting a child custody evaluation as
 18-62 a child custody evaluator under Subchapter D, Chapter 107, Family
 18-63 Code, as amended by this Act, unless the person is otherwise
 18-64 qualified to conduct the evaluation or is appointed by a court to
 18-65 conduct the evaluation under Section 107.106, Family Code, as added
 18-66 by this Act.

18-67 (e) Not later than March 1, 2016, the executive commissioner
 18-68 of the Health and Human Services Commission shall adopt any rules
 18-69 necessary to implement Subchapter E, Chapter 107, Family Code, as

19-1 added by this Act. Subchapter E, Chapter 107, Family Code, as added
19-2 by this Act, applies to an adoption evaluation ordered by a court on
19-3 or after March 1, 2016, or the date the executive commissioner
19-4 adopts rules under this subsection, whichever date occurs first.
19-5 An adoption evaluation, pre-placement adoptive social study, or
19-6 post-placement adoptive social study ordered by a court before that
19-7 date is governed by the law in effect immediately before the
19-8 effective date of this Act, and the former law is continued in
19-9 effect for that purpose.

19-10 SECTION 5.02. (a) Notwithstanding any other law, a person
19-11 is qualified to conduct a child custody evaluation under Section
19-12 107.104, Family Code, as redesignated and amended by this Act, or an
19-13 adoption evaluation under Section 107.154, Family Code, as added by
19-14 this Act, without satisfying the supervision requirements of
19-15 Section 107.104(b)(1) or (2) if, on or before the effective date of
19-16 this Act, the person completes at least 10 social studies or other
19-17 child custody evaluations ordered by a court in suits affecting the
19-18 parent-child relationship.

19-19 (b) Notwithstanding any other law, a person who is qualified
19-20 to conduct a social study evaluation under former Section
19-21 107.0511(g), Family Code, is authorized to conduct a child custody
19-22 evaluation before September 1, 2017, without meeting the
19-23 requirements under Section 107.104, Family Code, as redesignated
19-24 and amended by this Act, and the former law is continued in effect
19-25 for that purpose.

19-26 (c) Notwithstanding Section 107.104(b)(1), Family Code, as
19-27 redesignated and amended by this Act, an individual who on or before
19-28 the effective date of this Act has completed at least 20 social
19-29 studies ordered by a court in suits affecting the parent-child
19-30 relationship and who holds a license to practice in this state as a
19-31 social worker, professional counselor, marriage and family
19-32 therapist, or psychologist is not required to comply with Section
19-33 107.104(b)(1), Family Code, as redesignated and amended by this
19-34 Act.

19-35 SECTION 5.03. The changes in law made by this Act apply to a
19-36 suit affecting the parent-child relationship that is filed on or
19-37 after March 1, 2016.

19-38 SECTION 5.04. This Act takes effect September 1, 2015.

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