

1-1 By: Nelson S.B. No. 77
 1-2 (In the Senate - Filed November 14, 2016; January 24, 2017,
 1-3 read first time and referred to Committee on State Affairs;
 1-4 March 14, 2017, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 9, Nays 0; March 14, 2017,
 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. 77 By: Nelson

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

1-21 relating to involuntary termination of parental rights based on
 1-22 sexual assault of the child's other parent and the child support
 1-23 obligations of the parent whose rights were terminated.

1-24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-25 SECTION 1. Section 154.001(a-1), Family Code, is amended to
 1-26 read as follows:

1-27 (a-1) The court may order each person who is financially
 1-28 able and whose parental rights have been terminated with respect to
 1-29 ~~[either]~~ a child in substitute care for whom the department has been
 1-30 appointed managing conservator, a child for a reason described by
 1-31 Section 161.001(b)(1)(T)(iv) or (b)(1)(U), or a child who was
 1-32 conceived as a direct result of conduct that constitutes an offense
 1-33 under Section 21.02, 22.011, 22.021, or 25.02, Penal Code, to
 1-34 support the child in the manner specified by the order:

- 1-35 (1) until the earliest of:
 - 1-36 (A) the child's adoption;
 - 1-37 (B) the child's 18th birthday or graduation from
 - 1-38 high school, whichever occurs later;
 - 1-39 (C) removal of the child's disabilities of
 - 1-40 minority by court order, marriage, or other operation of law; or
 - 1-41 (D) the child's death; or

1-42 (2) if the child is disabled as defined in this
 1-43 chapter, for an indefinite period.

1-44 SECTION 2. Section 161.001(b), Family Code, is amended to
 1-45 read as follows:

1-46 (b) The court may order termination of the parent-child
 1-47 relationship if the court finds by clear and convincing evidence:

- 1-48 (1) that the parent has:
 - 1-49 (A) voluntarily left the child alone or in the
 - 1-50 possession of another not the parent and expressed an intent not to
 - 1-51 return;
 - 1-52 (B) voluntarily left the child alone or in the
 - 1-53 possession of another not the parent without expressing an intent
 - 1-54 to return, without providing for the adequate support of the child,
 - 1-55 and remained away for a period of at least three months;
 - 1-56 (C) voluntarily left the child alone or in the
 - 1-57 possession of another without providing adequate support of the
 - 1-58 child and remained away for a period of at least six months;
 - 1-59 (D) knowingly placed or knowingly allowed the
 - 1-60 child to remain in conditions or surroundings which endanger the

2-1 physical or emotional well-being of the child;

2-2 (E) engaged in conduct or knowingly placed the

2-3 child with persons who engaged in conduct which endangers the

2-4 physical or emotional well-being of the child;

2-5 (F) failed to support the child in accordance

2-6 with the parent's ability during a period of one year ending within

2-7 six months of the date of the filing of the petition;

2-8 (G) abandoned the child without identifying the

2-9 child or furnishing means of identification, and the child's

2-10 identity cannot be ascertained by the exercise of reasonable

2-11 diligence;

2-12 (H) voluntarily, and with knowledge of the

2-13 pregnancy, abandoned the mother of the child beginning at a time

2-14 during her pregnancy with the child and continuing through the

2-15 birth, failed to provide adequate support or medical care for the

2-16 mother during the period of abandonment before the birth of the

2-17 child, and remained apart from the child or failed to support the

2-18 child since the birth;

2-19 (I) contumaciously refused to submit to a

2-20 reasonable and lawful order of a court under Subchapter D, Chapter

2-21 261;

2-22 (J) been the major cause of:

2-23 (i) the failure of the child to be enrolled

2-24 in school as required by the Education Code; or

2-25 (ii) the child's absence from the child's

2-26 home without the consent of the parents or guardian for a

2-27 substantial length of time or without the intent to return;

2-28 (K) executed before or after the suit is filed an

2-29 unrevoked or irrevocable affidavit of relinquishment of parental

2-30 rights as provided by this chapter;

2-31 (L) been convicted or has been placed on

2-32 community supervision, including deferred adjudication community

2-33 supervision, for being criminally responsible for the death or

2-34 serious injury of a child under the following sections of the Penal

2-35 Code, or under a law of another jurisdiction that contains elements

2-36 that are substantially similar to the elements of an offense under

2-37 one of the following Penal Code sections, or adjudicated under

2-38 Title 3 for conduct that caused the death or serious injury of a

2-39 child and that would constitute a violation of one of the following

2-40 Penal Code sections:

2-41 (i) Section 19.02 (murder);

2-42 (ii) Section 19.03 (capital murder);

2-43 (iii) Section 19.04 (manslaughter);

2-44 (iv) Section 21.11 (indecent with a

2-45 child);

2-46 (v) Section 22.01 (assault);

2-47 (vi) Section 22.011 (sexual assault);

2-48 (vii) Section 22.02 (aggravated assault);

2-49 (viii) Section 22.021 (aggravated sexual

2-50 assault);

2-51 (ix) Section 22.04 (injury to a child,

2-52 elderly individual, or disabled individual);

2-53 (x) Section 22.041 (abandoning or

2-54 endangering child);

2-55 (xi) Section 25.02 (prohibited sexual

2-56 conduct);

2-57 (xii) Section 43.25 (sexual performance by

2-58 a child);

2-59 (xiii) Section 43.26 (possession or

2-60 promotion of child pornography);

2-61 (xiv) Section 21.02 (continuous sexual

2-62 abuse of young child or children);

2-63 (xv) Section 20A.02(a)(7) or (8)

2-64 (trafficking of persons); and

2-65 (xvi) Section 43.05(a)(2) (compelling

2-66 prostitution);

2-67 (M) had his or her parent-child relationship

2-68 terminated with respect to another child based on a finding that the

2-69 parent's conduct was in violation of Paragraph (D) or (E) or

3-1 substantially equivalent provisions of the law of another state;
3-2 (N) constructively abandoned the child who has
3-3 been in the permanent or temporary managing conservatorship of the
3-4 Department of Family and Protective Services for not less than six
3-5 months, and:
3-6 (i) the department has made reasonable
3-7 efforts to return the child to the parent;
3-8 (ii) the parent has not regularly visited
3-9 or maintained significant contact with the child; and
3-10 (iii) the parent has demonstrated an
3-11 inability to provide the child with a safe environment;
3-12 (O) failed to comply with the provisions of a
3-13 court order that specifically established the actions necessary for
3-14 the parent to obtain the return of the child who has been in the
3-15 permanent or temporary managing conservatorship of the Department
3-16 of Family and Protective Services for not less than nine months as a
3-17 result of the child's removal from the parent under Chapter 262 for
3-18 the abuse or neglect of the child;
3-19 (P) used a controlled substance, as defined by
3-20 Chapter 481, Health and Safety Code, in a manner that endangered the
3-21 health or safety of the child, and:
3-22 (i) failed to complete a court-ordered
3-23 substance abuse treatment program; or
3-24 (ii) after completion of a court-ordered
3-25 substance abuse treatment program, continued to abuse a controlled
3-26 substance;
3-27 (Q) knowingly engaged in criminal conduct that
3-28 has resulted in the parent's:
3-29 (i) conviction of an offense; and
3-30 (ii) confinement or imprisonment and
3-31 inability to care for the child for not less than two years from the
3-32 date of filing the petition;
3-33 (R) been the cause of the child being born
3-34 addicted to alcohol or a controlled substance, other than a
3-35 controlled substance legally obtained by prescription;
3-36 (S) voluntarily delivered the child to a
3-37 designated emergency infant care provider under Section 262.302
3-38 without expressing an intent to return for the child; [~~or~~]
3-39 (T) been convicted of:
3-40 (i) the murder of the other parent of the
3-41 child under Section 19.02 or 19.03, Penal Code, or under a law of
3-42 another state, federal law, the law of a foreign country, or the
3-43 Uniform Code of Military Justice that contains elements that are
3-44 substantially similar to the elements of an offense under Section
3-45 19.02 or 19.03, Penal Code;
3-46 (ii) criminal attempt under Section 15.01,
3-47 Penal Code, or under a law of another state, federal law, the law of
3-48 a foreign country, or the Uniform Code of Military Justice that
3-49 contains elements that are substantially similar to the elements of
3-50 an offense under Section 15.01, Penal Code, to commit the offense
3-51 described by Subparagraph (i); [~~or~~]
3-52 (iii) criminal solicitation under Section
3-53 15.03, Penal Code, or under a law of another state, federal law, the
3-54 law of a foreign country, or the Uniform Code of Military Justice
3-55 that contains elements that are substantially similar to the
3-56 elements of an offense under Section 15.03, Penal Code, of the
3-57 offense described by Subparagraph (i); or
3-58 (iv) the sexual assault of the other parent
3-59 of the child under Section 22.011 or 22.021, Penal Code, or under a
3-60 law of another state, federal law, or the Uniform Code of Military
3-61 Justice that contains elements that are substantially similar to
3-62 the elements of an offense under Section 22.011 or 22.021, Penal
3-63 Code; or
3-64 (U) been placed on community supervision,
3-65 including deferred adjudication community supervision, or another
3-66 functionally equivalent form of community supervision or
3-67 probation, for being criminally responsible for the sexual assault
3-68 of the other parent of the child under Section 22.011 or 22.021,
3-69 Penal Code, or under a law of another state, federal law, or the

4-1 Uniform Code of Military Justice that contains elements that are
4-2 substantially similar to the elements of an offense under Section
4-3 22.011 or 22.021, Penal Code; and

4-4 (2) that termination is in the best interest of the
4-5 child.

4-6 SECTION 3. The change in law made by this Act applies only
4-7 to a suit affecting the parent-child relationship filed on or after
4-8 the effective date of this Act. A suit affecting the parent-child
4-9 relationship filed before the effective date of this Act is
4-10 governed by the law in effect on the date the suit was filed, and the
4-11 former law is continued in effect for that purpose.

4-12 SECTION 4. This Act takes effect September 1, 2017.

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