

SUBJECT: Binding jury decision on child's primary residence

COMMITTEE: Juvenile Justice and Family Issues — committee substitute recommended

VOTE: 9 ayes — Goodman, Staples, J. Jones, McClendon, McReynolds, Naishtat, A. Reyna, Smith, Williams

0 nays

WITNESSES: None

BACKGROUND : The Texas Family Code provides two methods of allocating custody and control of a child between two parents: (1) one parent is appointed as managing conservator, and the other parent is appointed as possessory conservator, or (2) both parents are appointed as joint managing conservators. These appointments help determine the rights and duties of each parent with regard to the child.

Current law allows parties to a suit affecting the parent-child relationship to demand a jury trial, except in adoption cases. A jury's verdict is binding on the court except on the issues of the specific terms and conditions of possession of and access to the child, child support, and the rights, privileges, duties, and powers of a sole managing conservator, a possessory conservator, or joint managing conservators. The court may decide whether to submit those issues to the jury; if it does submit them, the jury's verdict is advisory only and does not bind the court.

DIGEST: HB 646 would amend the Family Code to list the issues on which parties to a suit affecting the parent-child relationship would be entitled to a binding jury verdict. The issues would include appointment of managing conservators, possessory conservators, or joint managing conservators, and determination of the child's primary residence.

Judges could submit issues of child support, specific terms or conditions of possession of or access to the child, or other rights or duties of a possessory or managing conservator to a jury, but the verdict would be advisory only and would not bind the court.

**SUPPORTERS
SAY:**

HB 646 would clarify current law by delineating the issues on which a jury verdict would be binding on the court. Currently, a judge can block the will of the jury regarding the child's primary residence in cases where the jury renders a verdict for joint managing conservators. This type of verdict does not indicate where the child will live. Instead, the court gives one of the joint managing conservators the right to determine the child's primary residence. As a result, a jury verdict for custody, which is binding on the court, may be contravened by the court through its power to designate which joint managing conservator will receive the right to determine the child's primary residence.

HB 646 would solve this conflict by establishing that the parties to a suit affecting the parent-child relationship are entitled to a jury verdict on the issue of the primary residence of the child and by making that verdict binding on the court.

**OPPONENTS
SAY:**

No apparent opposition.

NOTES:

The committee substitute corrected technical numbering errors in the introduced bill.

The companion bill, SB 799 by Harris, was reported favorably from the Senate Jurisprudence Committee on March 18 and recommended for the Local and Uncontested Calendar.