

SUBJECT: Periods of possession of a child under a standard possession order

COMMITTEE: Juvenile Justice and Family Issues — favorable, without amendment

VOTE: 5 ayes — Dutton, Eiland, Farrar, Gonzalez Toureilles, Hernandez
0 nays
4 absent — Bolton, Farias, Strama, Vaught

WITNESSES: For — Wendy Burgower, Texas Family Law Foundation; Drew Montz, Texas Parents Alliance; (*Registered, but did not testify:* Laura Edwards)
Against — None

BACKGROUND: In cases in which parents share custody of a child, the possessory conservator is the parent who has visitation rights and does not provide the primary residence for the child. Family Code, sec. 153.312 describes the times during which a possessory conservator can take possession of a child in the case of parents who live 100 miles or less apart.

DIGEST: HB 1864 would amend Family Code, sec. 153.312 to specify that a possessory conservator would have the right to possession of the child on the first, third, and fifth weekends of the month throughout the year, including summers. The bill also would specify that during the school year, the possessory conservator could pick the child up for weekend visitations either at the end of the school day or at 6 p.m. on Friday.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2007.

SUPPORTERS SAY: HB 1864 simply would clarify the standard possession order for a child under the Family Code. Currently, a standard possession order in Texas allows a possessory conservator visitation on the first, third and fifth weekend of every month. Additionally, a possessory conservator is permitted a 30-day visitation period during the summer. However, the

Family Code does not explicitly state that the weekend visitation resumes once the 30-day, summer visitation period is over.

This lack of clarity has resulted in cases in which the managing conservator argues that the 30-day visitation period is the only visitation permitted to the possessory conservator during the summer. While such claims are not upheld, it still causes additional court expenses for the possessory conservator to establish the original intent of this statute.

HB 1864 would not change the periods of possession under a standard possession order. It simply would clarify the statute to state the intent of a standard possession order to allow for visitation on the first, third, and fifth weekend of each month to resume upon the completion of the 30-day visitation period.

OPPONENTS
SAY:

No apparent opposition.