

- SUBJECT:** Limiting the effect of certain judicial admissions on modification orders
- COMMITTEE:** Juvenile Justice and Family Issues — favorable, without amendment
- VOTE:** 9 ayes — Neave, Swanson, Cook, Frank, Leach, Ramos, Talarico, Vasut, Wu
0 nays
- WITNESSES:** For — Bill Morris, Texas Family Law Foundation; (*Registered, but did not testify:* Amy Bresnen, Steve Bresnen, and David Kazen, Texas Family Law Foundation; Meagan Corser, Texas Home School Coalition; Thomas Parkinson)

Against — (*Registered, but did not testify:* David OConnor)

On — Taran Champagne
- BACKGROUND:** Family Code sec. 8.057 governs the modification of a spousal maintenance order. Under this section, a court may modify an original or modified order or portion of a decree providing for maintenance after a hearing and on a proper showing of a material and substantial change in circumstances.

Under Family Code ch. 156, subch. A, a court with continuing, exclusive jurisdiction may modify an order that provides for the conservatorship, support, or possession of and access to a child.
- DIGEST:** HB 851 would specify that a person who filed a motion to modify certain orders issued under the Family Code based on a material and substantial change of circumstances could not be considered on that basis alone to have admitted a material and substantial change of circumstances regarding any other matter.

This would apply to a motion to modify spousal maintenance, as well as a motion to modify an order that:

- provided for the appointment of a conservator of a child;
- provided the terms and conditions of conservatorship;
- provided for the possession of or access to a child; or
- provided for the support of a child.

The bill would take effect September 1, 2021, and would apply only to a motion to modify that is filed on or after the effective date.

**SUPPORTERS
SAY:**

HB 851 would protect individuals in family law cases who filed a motion to modify a court order due to a material change in their circumstances from consequences in other court proceedings.

Individuals' circumstances sometimes change, and court orders and divorce decrees may need to be modified in response. However, modifications to one order or in one case should not be taken as an admission of changed circumstances for other orders or cases. For example, a parent who alleged a material change in regard to an order for child support should not be considered to have admitted to an issue that would affect their access to their child.

The bill would clarify that a person who filed a motion to modify an order in certain family law cases, including those related to spousal maintenance, child support, and child possession or conservatorship, due to a change in circumstances would not be making a judicial admission in another proceeding.

**CRITICS
SAY:**

No concerns identified.