

SUBJECT: Modifying standard possession orders for parents within a certain distance

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

VOTE: 6 ayes — Neave, Cook, Frank, Leach, Ramos, Wu

0 nays

3 absent — Swanson, Talarico, Vasut

SENATE VOTE: On final passage, April 23 — 31-0, on Local and Uncontested Calendar

WITNESSES: For — Steve Bresnen, Texas Family Law Foundation; Laura Alter;
(*Registered, but did not testify:* Amy Bresnen, Texas Family Law Foundation)

Against — None

BACKGROUND: Family Code ch. 153, subch. F governs standard child possession orders and establishes standard orders for parents who reside 100 miles or less apart, for parents who reside over 100 miles apart, for a weekend possession extended by a holiday, and for a holiday possession unaffected by distance the parents reside apart.

Sec. 153.317 specifies that if elected by a conservator, the court must alter a standard possession order for parents who reside 100 miles or less apart, for a weekend possession extended by a holiday, and for a holiday possession unaffected by distance to provide for specified alternative beginning and ending possession times for the described periods of possession, unless the court finds that the election is not in the best interest of the child.

Interested parties have suggested that a court should default to providing alternative beginning and ending possession times in certain standard possession orders for parents who reside 50 miles or less apart, instead of requiring that such parents elect alternative beginning and ending

possession times at the outset of the order.

DIGEST:

SB 1936 would require that if a possessory conservator resided 50 miles or less from the primary residence of a child, a court would have to alter the applicable standard possession order to provide that the conservator had the right to possession of the child as if the conservator had initially made the elections for certain alternative beginning and ending possession times. This provision would apply, unless:

- the possessory conservator declined one or more of the alternative beginning and ending possession times in a written document filed with the court or through an oral statement made in open court on the record;
- the court was denying, restricting, or limiting the possessory conservator's possession of or access to the child in the best interest of the child; or
- the court found that one or more of the alternative beginning and ending possession times was not in the best interest of the child as specified by the bill.

On the request of a party, the court would have to make findings of fact and conclusions of law regarding an order under the bill.

The bill also would require the attorney general's office to create informational materials describing the possession schedule under standard possession orders, including any alternate schedules or elections available to conservators.

Enactment of the bill would not constitute a material and substantial change of circumstances sufficient to warrant modification of a court order or portion of a decree that provided for the possession of or access to a child rendered before the bill's effective date.

The bill would take effect September 1, 2021, and would apply only to a suit affecting the parent-child relationship that was pending in a trial court or that was filed on or after that date.

