

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 1711
By: Ellis
Jurisprudence
4/27/1999
Committee Report (Substituted)

DIGEST

In 1995, the Texas Legislature established the presumption that the appointment of parents of a child as joint managing conservators is in the best interest of the child. The provision was amended in 1997 to eliminate the presumption that parents should be named joint managing conservators if violence is in their family history. When joint managing conservators are appointed, one party is ordinarily given the right to designate the primary physical residence of the child, and the other party is generally ordered to pay child support and is given a standard possession order. C.S.S.B. 1711 would establish provisions regarding a suit for modification of an order that designates a sole or joint managing conservator of a child.

PURPOSE

As proposed, C.S.S.B. 1711 establishes provisions regarding a suit for modification of an order that designates a sole or joint managing conservator of a child.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 156A, Family Code, by adding Section 156.007, as follows:

Sec. 156.007. PRESUMPTION OF JOINT MANAGING CONSERVATORSHIP. Requires the court, in a suit for modification under Subchapter B or C, to consider that it is a rebuttable presumption that the appointment of the parents of a child as joint managing conservators is in the best interest of the child. Provides that a finding of a history of family violence involving the parents of a child removes the presumption under this section.

SECTION 2. Amends Section 156.104, Family Code, to require the court, if the court modifies a sole managing conservator to a joint managing conservator, to designate the parent who was previously sole managing conservator as the joint managing conservator who has the exclusive right to determine the primary residence of the child, unless the court finds that certain conditions exist. Deletes text regarding certain circumstances of a sole managing conservatorship. Makes conforming changes.

SECTION 3. Amends Section 156.301, Family Code, to authorize the court to modify certain aspects regarding the relative rights, privileges, duties, and powers of conservators including the notice of a conservator's change of residence required by Chapter 105, rather than Chapter 153, not being given, and if the court has modified an order that designates a sole managing conservator.

SECTION 4. Effective date: September 1, 1999.
Makes application of this Act prospective.

SECTION 5. Emergency clause.

SUMMARY OF COMMITTEE CHANGES

SECTION 2.

Amends Section 156.104, Family Code, to establish conditions regarding the modification of a sole managing conservatorship to a joint managing conservatorship. Deletes text regarding certain circumstances of a sole managing conservatorship. Makes conforming changes.

SECTION 3.

Amends Section 156.301, Family Code, to authorize the court to modify certain aspects regarding the relative rights, privileges, duties, and powers of conservators including the notice of a conservator's change of residence required by Chapter 105, rather than Chapter 153, not being given, and if the court has modified an order that designates a sole managing conservator.

SECTIONS 4 and 5.

Redesignated from proposed SECTIONS 2 and 3.