

BILL ANALYSIS

Senate Research Center
77R6646 JXC-D

C.S.S.C.R. 20
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Jurisprudence
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Committee Report (Substituted)

DIGEST

Child custody law is a complex process involving a number of distinct issues, such as child custody agreements, visitation and access privileges for noncustodial parents, and child support obligations. While custody disputes generally entail competing or conflicting interests among the various parties involved, both the public policy and the law of this state require the judicial system to make the “best interest of the child” the primary consideration in its resolution of custody issues. The State of Texas recognizes that a child’s best interests, as well as those of the child’s parents or guardians, may be better served outside the courtroom in a manner that also improves court-time efficiency and expedites the process. In child custody cases, except in certain cases involving domestic violence or abuse, alternatives to protracted litigation can preserve the parent-child and parent-to-parent relationships and respond more sensitively to the needs of the individuals involved. Chapter 153 of the Family Code addresses this concern and provides for alternative dispute resolution procedures, such as arbitration and mediation, in cases affecting the parent-child relationship. Upon written agreement of involved parties, the court may refer a case to arbitration or to mediation. Arbitration and mediation involve the participation of a neutral third party in a closed and confidential proceeding, offering an informal approach and the opportunity for all parties to participate directly in resolving the dispute, giving a child a less traumatic and more personal experience than would be likely in a lengthy courtroom battle. Because alternative dispute resolution processes tend to be informal, quick, and flexible, they can produce earlier settlements that save time, money, and emotional expenditure, and they generally yield practical and creative agreements to the greater satisfaction of the parties involved. Although alternative dispute resolution processes have been used across the state, and the early use of such procedures has proven effective in preventing protracted court battles, the Texas Senate Committee on Jurisprudence, in its 2000 interim report, recognizes that a greater effort can be made by Texas courts to exercise the remedy of alternative dispute resolution in child custody disputes.

PURPOSE

As proposed, C.S.S.C.R. 20 provides for the following resolutions:

Provides for the 77th Texas Legislature to urge judges who hear family law cases to increase use of alternative dispute resolution procedures in resolving child custody disputes. Provides that the secretary of state forward official copies of this resolution to the administrative director of the Office of Court Administration of the Texas Judicial System and to the chair of the Texas Judicial Council.

SUMMARY OF COMMITTEE CHANGES

Differs from As Filed version by adding “except in certain cases involving domestic violence or abuse” when referring to alternatives to protracted litigation that can preserve the parent-child and parent-parent relationships in child custody cases.