SUBJECT: Parenting plans and parenting coordinators in child custody disputes

COMMITTEE: Juvenile Justice and Family Issues — committee substitute recommended

VOTE: 5 ayes — Dutton, Goodman, Castro, Nixon, Strama

0 nays

4 absent — Y. Davis, Dunnam, J. Moreno, Thompson

WITNESSES: For — Cecelia Burke, Travis County Domestic Relations; Claire Hill, Texas Association for Marriage and Family Therapy; David W. Simpson, Harris County Domestic Relations Office; Debra H. Lehrmann, Harry L. Tindall, Lynelle C. Yingling.

Against — None

On — Laura Wolf, Texas Council on Family Violence

DIGEST: CSHB 252 would amend the Family Code to require parenting plans and parenting coordinators in child custody lawsuits and establish procedures for their use.

Temporary and final orders in child custody lawsuits would have to meet the requirements of final parenting plans, which would include:

- establishing rights and duties of parents with respect to the child;
- minimizing the child's exposure to harmful parental conflict;
- providing for the child's changing needs in a way that minimizes the need to modify the final parenting plan; and
- providing for dispute resolution procedures before court action, unless precluded or limited by previous binding arbitration.

If the parties could not reach agreement on a final parenting plan, the court could order appropriate dispute resolution proceedings to determine a final plan. If the parties had not reached agreement 30 days before their trial date, each party would file with the court a proposed final parenting plan. Failure to submit a plan could result in the court's adoption of the other party's plan if the court found it to be in the best interest of the child. Each

party filing a proposed parenting plan would attach a verified statement of income and a verified statement that the plan was proposed in good faith and was in the best interest of the child.

In a suit for modification, a proposed parenting plan would have to be filed with the court and served with the petition, unless the modification was sought only for child support.

The court could appoint a parenting coordinator to help resolve parenting and other family issues in the suit. The court order would specify the parenting coordinator's authority, which would be limited to helping the parties identify disputed issues, reduce misunderstandings, clarify priorities, explore problem-solving, develop collaboration in parenting, develop a parenting plan, and comply with the court's order regarding conservatorship or possession of and access to the child.

Having a parenting coordinator would not divest the court of exclusive jurisdiction on conservatorship, support, and possession of and access to the child and the authority to manage and control the suit. The parenting coordinator could not modify an order, judgment, or decree but could suggest that the parties agree to minor temporary departures from a parenting plan if the court authorized a coordinator to do so. Any such agreement could be in writing and presented to the court for approval.

Meetings between the coordinator and the parties could be informal and would not have to follow any specific procedures. A parenting coordinator would not have to produce work product or disclose the source of any information, testify in court, or submit a report into evidence, except written reports required by the court giving an opinion of whether the parenting coordination should continue.

A parenting coordinator could not be appointed if any party objected, unless the court found that the case was or was likely to become a high-conflict case or the appointment of a parenting coordinator was in the best interest of a minor child in the lawsuit.

Before the appointment of a parenting coordinator, a party could file a written objection to the appointment based on family violence having been committed by another party against the objecting party or a child who was the subject of the suit. After an objection, a parenting coordinator could not be appointed unless the court held a hearing and found that a

preponderance of evidence did not support the objection. If a parenting coordinator were appointed, the court would order measures to ensure the safety of the party who filed the objection. The order could provide that the parties not be required to have face-to-face contact and be in separate rooms during the parenting coordination.

The court could reserve the right to remove a parenting coordinator at its discretion, on the request and agreement of both parties, or on the motion of a party, if good cause were shown.

A court could not appoint a parenting coordinator who was not an employee of the court or a volunteer unless the court found that the parties could pay the coordinator's fees. Fees to pay the parenting coordinator would be allocated between the parties by the court. Public funds could not be used to pay a parenting coordinator, but the court could appoint an employee, the domestic relations office, or a comparable county agency to act as a parenting coordinator if personnel were available for that function.

The court would determine qualifications of a parenting coordinator, but that person would have to either hold a graduate degree in a mental health profession with an emphasis in family and children's issues, or hold a bachelor's degree in counseling, education, family studies, psychology or social work, and would have to complete a 16-hour parenting coordinator course, unless it were waived by the court. A parenting coordinator would have to complete at least eight hours of family violence dynamics training provided by a family violence service provider.

The bill includes legislative findings that the use of parenting plans and parenting coordinators in suits affecting the parent-child relationship would help promote the best interest of children and help litigants resolve parenting issues. The bill would say that the legislature found that conciliatory forms of dispute resolution promoted the state's policy of assuring that children had continuing contact with parents who could act in the best interest of the child, providing a safe, stable and nonviolent environment, and encouraging parents to share rights and duties of raising the child after separation or divorce.

CSHB 252 would take effect September 1, 2005 and would apply to lawsuits affecting the parent-child relationship filed after that date.

SUPPORTERS SAY:

CSHB 252 would help ensure that parents involved in high-conflict custody cases minimized adverse effects on children by requiring them to write down and submit to the court a plan establishing the rights and duties of each parent with respect to the child. The bill also would allow courts to require parents to meet with a parenting coordinator to help resolve parenting issues.

The use of parenting plans and coordinators is a national trend that has improved outcomes for children in custody disputes and reduced costs of parents continually returning to court to resolve issues that could have been worked out as part of a parenting plan. The bill would provide courts with another tool for addressing the many issues in contested custody cases.

CSHB 252 would provide protections in custody cases involving domestic violence. These protections would be necessary to protect spouses and children from further abuse and to assure that parenting coordinators had adequate training to be sensitive to domestic violence issues.

The bill would foster the use of parenting coordinators in smaller communities, where professionals with master's degrees may not be available, by allowing those with related degrees and training to be parenting coordinators.

OPPONENTS SAY:

CSHB 252 would add another expense to the already high cost of divorce by requiring parents to submit parenting plans and encouraging judges to order parents to work with parenting coordinators. Parents with the resources would have to pay the parenting coordinator's fee, whether or not they were participating voluntarily.

OTHER OPPONENTS SAY:

The minimal qualifications to be a parenting coordinator are not stringent enough. Anyone who provides counseling in high-conflict custody cases should have more than 16 hours of basic training.

NOTES:

The committee substitute would allow either party to file a written objection to participating in a dispute resolution process or to the appointment of a parenting coordinator on the basis of family violence

having been committed against the objecting party. The substitute would require parenting coordinators to complete at least eight hours of family violence training by a family violence service provider.