

## **BILL ANALYSIS**

Senate Research Center

C.S.H.B. 1012  
By: Gonzalez Toureilles (Harris)  
Jurisprudence  
5/22/2009  
Committee Report (Substituted)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

There are various provisions in the Family Code regarding possession of a child that need to be clarified and amended.

C.S.H.B. 1012 amends current law relating to the conservatorship or possession of, or access to, a child in a suit affecting the parent-child relationship.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the State Bar of Texas, Texas State Board of Examiners of Psychologists, Texas State Board of Examiners of Marriage and Family Therapists, Texas State Board of Examiners of Professional Counselors, and Texas State Board of Social Worker Examiners in SECTION 32 of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 102.0045(b), Family Code, to provide that access to a child by a sibling of the child is governed by the standards established by Section 153.551, rather than Subchapter J (Rights of Siblings), Chapter 153 (Conservatorship, Possession, and Access).

SECTION 2. Amends Section 107.0511, Family Code, by adding Subsections (g), (h), and (i), as follows:

(g) Provides that the minimum qualifications prescribed by this section do not apply to an individual who, before September 1, 2007:

- (1) lived in a county that has a population of 500,000 or more and is adjacent to two or more counties each of which has a population of 50,000 or more;
- (2) received a four-year degree from an accredited institution of higher education;
- (3) worked as a child protective services investigator for the Department of Family and Protective Services (DFPS) for at least four years;
- (4) worked as a community supervision and corrections department officer; and
- (5) conducted at least 100 social studies in the previous five years.

(h) Requires a person described by Subsection (g) who performs a social study to:

- (1) complete at least eight hours of family violence dynamics training provided by a family violence service provider; and
- (2) participate annually in at least 15 hours of continuing education for child custody evaluators that meets the Model Standards of Practice for Child Custody Evaluation adopted by the Association of Family and Conciliation Courts as those standards existed May 1, 2009, or a later version of those standards if adopted by rule of the executive commissioner of the Health and Human Services Commission.

(i) Provides that Subsections (g) and (h) and this subsection expire September 1, 2017.

SECTION 3. Amends Section 153.133, Family Code, by adding Subsection (c), as follows:

(c) Requires the court, notwithstanding Subsection (a)(1) (relating to designating the conservator who has the exclusive right to designate the primary residence of the child), to render an order adopting the provisions of a written agreed parenting plan appointing the parents as joint managing conservators if the parenting plan:

(1) meets all the requirements of Subsections (a)(2) (relating to the parenting plan specifying the rights and duties of each parent regarding the child's physical care, support, and education), (3) (relating to the parenting plan including provisions in the parenting plan to minimize disruption of the child's education, daily routine, and association with friends), (4) (relating to the parenting plan allocating between the parents, independently, jointly, or exclusively, all of the remaining rights and duties of a parent), (5) (relating to the parenting plan being made voluntarily and knowingly by each parent and not repudiated by either at the time the order is rendered), and (6) (relating to the parenting plan being in the best interest of the child); and

(2) provides that the child's primary residence is required to be within a specified geographic area.

SECTION 4. Amends Subchapter F, Chapter 153, Family Code, by adding Section 153.3101, as follows:

Sec. 153.3101. REFERENCE TO "SCHOOL" IN STANDARD POSSESSION ORDER. Defines "school."

SECTION 5. Amends Section 153.311, Family Code, to require the court to specify in a standard possession order that the parties are authorized to have possession of the child at times mutually agreed to in advance by the parties and, in the absence of mutual agreement, are required to have possession of the child under the specified terms set out in the standard possession order.

SECTION 6. Amends Section 153.312, Family Code, as follows:

Sec. 153.312. PARENTS WHO RESIDE 100 MILES OR LESS APART. (a) Requires the possessory conservator, if the possessory conservator resides 100 miles or less from the primary residence of the child, to have the right to possession of the child as follows:

(1) on weekends throughout the year beginning at 6 p.m. on the first, third, and fifth Friday of each month and ending at 6 p.m. on the following Sunday, rather than on weekends throughout the year beginning at 6 p.m. on the first, third, and fifth Friday of each month and ending at 6 p.m. on the following Sunday, except that, at the possessory conservator's election made before or at the time of the rendition of the original or modification order, and as specified in the original or modification order, the weekend periods of possession specified by this subdivision that occur during the regular school term shall begin at the time the child's school is regularly dismissed and end at 6 p.m. on the following Sunday; and

(2) on Thursdays of each week during the regular school term beginning at 6 p.m. and ending at 8 p.m., unless the court finds that visitation under this subdivision is not in the best interest of the child, rather than on Thursdays of each week during the regular school term beginning at 6 p.m. and ending at 8 p.m., or, at the possessory conservator's election made before or at the time of the rendition of the original or modification order, and as specified in the original or modification order, beginning at the time the child's school is regularly dismissed and ending at the time the child's school resumes.

(b) Requires the possessory conservator and the managing conservator to have rights of possession of the child as follows:

(1) Makes no change to this subdivision;

(2) if a possessory conservator gives the managing conservator written notice by April 1 of each year specifying an extended period or periods of summer possession, the possessory conservator is required to have possession of the child for 30 days beginning not earlier than the day after the child's school is dismissed for the summer vacation and ending not later than seven days before school resumes at the end of the summer vacation, to be exercised in not more than two separate periods of at least seven consecutive days each, with each period of possession beginning and ending at 6 p.m. on each applicable day; and

(3)-(4) Makes no changes to these subdivisions.

SECTION 7. Amends Section 153.313, Family Code, as follows:

Sec. 153.313. PARENTS WHO RESIDE OVER 100 MILES APART. Requires the possessory conservator, if the possessory conservator resides more than 100 miles from the residence of the child, to have the right to possession of the child as follows:

(1) Makes no change to this subdivision;

(2) each year beginning at 6 p.m. on the day the child is dismissed from school for the school's spring vacation and ending at 6 p.m. on the day before school resumes after that vacation;

(3) if the possessory conservator gives the managing conservator written notice by April 1 of each year specifying an extended period or periods of summer possession, the possessory conservator is required to have possession of the child for 42 days beginning not earlier than the day after the child's school is dismissed for the summer vacation and ending not later than seven days before school resumes at the end of the summer vacation, to be exercised in not more than two separate periods of at least seven consecutive days each, with each period of possession beginning and ending at 6 p.m. on each applicable day;

(4) Makes no change to this subdivision; or

(5) if the managing conservator gives the possessory conservator written notice by April 15 of each year, the managing conservator may designate 21 days beginning not earlier than the day after the child's school is dismissed for the summer vacation and ending not later than seven days before school resumes at the end of the summer vacation, to be exercised in not more than two separate periods of at least seven consecutive days each, with each period of possession beginning and ending at 6 p.m. on each applicable day, during which the possessory conservator is prohibited from having possession of the child, provided that the period or periods so designated do not interfere with the possessory conservator's period or periods of extended summer possession or with Father's Day if the possessory conservator is the father of the child.

SECTION 8. Amends Section 153.314, Family Code, as follows:

Sec. 153.314. HOLIDAY POSSESSION UNAFFECTED BY DISTANCE PARENTS RESIDE APART. Requires the possessory conservator and the managing conservator to have rights of possession of the child as follows:

(1)-(3) Makes no changes to these subdivisions;

(4) the parent not otherwise entitled under this standard possession order to present possession of a child on the child's birthday is required to have possession of the child beginning at 6 p.m. and ending at 8 p.m. on that day, provided that the parent picks up the child from the residence of the conservator entitled to possession and returns the child to that same place; and

(5)–(6) Makes a conforming change.

SECTION 9. Amends Section 153.315, Family Code, as follows:

Sec. 153.315. WEEKEND POSSESSION EXTENDED BY HOLIDAY. (a) Requires the weekend possession, if a weekend period of possession of the possessory conservator coincides with a student, rather than school, holiday or teacher in-service day that falls on a Monday during the regular school term, as determined by the school in which the child is enrolled, or with a federal, state, or local holiday that falls on a Monday during the summer months in which school is not in session, to end at 6 p.m. on Monday, rather than on a Monday holiday or school holiday or is required to begin at 6 p.m. Thursday for a Friday holiday or school holiday, as applicable.

(b) Requires the weekend possession, if a weekend period of possession of the possessory conservator coincides with a student holiday or teacher in-service day that falls on a Friday during the regular school term, as determined by the school in which the child is enrolled, or with a federal, state, or local holiday that falls on a Friday during the summer months in which school is not in session, to begin at 6 p.m. on Thursday. Deletes existing text authorizing periods of possession extended by a holiday at the possessory conservator's election, made before or at the time of the rendition of the original or modification order, and as specified in the original or modification order, to begin at the time the child's school is regularly dismissed.

SECTION 10. Amends Section 153.317, Family Code, as follows:

Sec. 153.317. New heading: ALTERNATIVE BEGINNING AND ENDING POSSESSION TIMES. (a) Requires the court, if elected by a conservator, to alter the standard possession order under Sections 153.312, 153.314, and 153.315 to provide for one or more of the following 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:

(1) for weekend periods of possession under Section 153.312(a)(1) during the regular school term beginning at the time the child's school is regularly dismissed or ending at the time the child's school resumes after the weekend;

(2) for Thursday periods of possession under Section 153.312(a)(2) beginning at the time the child's school is regularly dismissed or ending at the time the child's school resumes on Friday;

(3) for spring vacation periods of possession under Section 153.312(b)(1) (relating to requiring the possessory conservator to have possession in even-numbered years, beginning at 6 p.m. on the day the child is dismissed from school for the school's spring vacation and ending the day school resumes; and requiring the managing conservator to have possession for the same period in odd-numbered years), beginning at the time the child's school is dismissed for those vacations;

(4) for Christmas school vacation periods of possession under Section 153.314(1) (relating to requiring the possessory conservator to have possession in even-numbered years, beginning at 6 p.m. on the day the child is dismissed from school for Christmas vacation and ending at noon on December 28; and requiring the

managing conservator to have possession for the same period in odd-numbered years), beginning at the time the child's school is dismissed for the vacation;

(5) for Thanksgiving holiday periods of possession under Section 153.314(3) (relating to requiring the possessory conservator to have possession of the child in odd-numbered years, beginning at 6 p.m. on the day the child is dismissed from school before Thanksgiving and ending at 6 p.m. on the following Sunday; and requiring the managing conservator to have possession of the child for the same period in even-numbered years), beginning at the time the child's school is dismissed for the holiday;

(6) for Father's Day periods of possession under Section 153.314(5) (relating to requiring the father, if a conservator, to have possession of the child beginning at 6 p.m. on the Friday preceding Father's Day and ending on Father's Day at 6 p.m. under certain conditions), ending at 8 a.m. on the Monday after Father's Day weekend;

(7) for Mother's Day periods of possession under Section 153.314(6) (relating to requiring the mother, if a conservator, to have possession of the child beginning at 6 p.m. on the Friday preceding Mother's Day and ending on Mother's Day at 6 p.m. under certain conditions), beginning at the time the child's school is regularly dismissed on the Friday preceding Mother's Day or ending at the time the child's school resumes after Mother's Day; or

(8) for weekend periods of possession that are extended under Section 153.315(b) by a student holiday or teacher in-service day that falls on a Friday, beginning at the time the child's school is regularly dismissed on Thursday.

(b) Requires a conservator to make an election under Subsection (a) before or at the time of the rendition of a possession order. Authorizes the election to be made in a written document filed with the court or through an oral statement made in open court on the record. Deletes existing text requiring the standard order, if a child is enrolled in school and the possessory conservator elects before or at the time of the rendition of the original or modification order, to expressly provide that the possessory conservator's period of possession is required to begin or end, or both, at a different time expressly set in the standard order under and within the range of alternative times provided by one or both of the following subdivisions: authorizing the period of possession, instead of a period of possession by a possessory conservator beginning at 6 p.m. on the day school recesses, to be set in the standard possession order to begin at the time the child's school is regularly dismissed or at any time between the time the child's school is regularly dismissed and 6 p.m.; and authorizing the period of possession, except for Thursday evening possession, instead of a period of possession by a possessory conservator ending at 6 p.m. on the day before school resumes, to be set in the standard order to end at the time school resumes.

SECTION 11. Amends Section 153.432, Family Code, by adding a new Subsection (c), to require the person filing the suit, in a suit described by Subsection (a) (relating to certain methods for a grandparent to request access to the child), to execute and attach an affidavit on knowledge or belief that contains, along with supporting facts, the allegation that denial of possession of or access to the child by the petitioner would significantly impair the child's physical health or emotional well-being. Requires the court to deny the relief sought and dismiss the suit, unless the court determines that the facts stated in the affidavit, if true, would be sufficient to support the relief authorized under Section 153.433.

SECTION 12. Amends Section 153.433, Family Code, as follows:

Sec. 153.433. POSSESSION OF OR ACCESS TO GRANDCHILD. (a) Creates this subsection from existing text. Authorizes, rather than requires, the court to order reasonable possession of or access to a grandchild by a grandparent under certain conditions.

(b) Requires that an order granting possession of or access to a child by a grandparent that is rendered over a parent's objections state, with specificity that:

(1) at the time the relief was requested, at least one biological or adoptive parent of the child had not had that parent's parental rights terminated;

(2) the grandparent requesting possession of or access to the child has overcome the presumption that a parent acts in the best interest of the parent's child by proving by a preponderance of the evidence that the denial of possession of or access to the child would significantly impair the child's physical health or emotional well-being; and

(3) the grandparent requesting possession of or access to the child is a parent of a parent of the child and that parent of the child has been incarcerated in jail or prison during the three-month period preceding the filing of the petition, has been found by a court to be incompetent, is dead, or does not have actual or court-ordered possession of or access to the child.

SECTION 13. Amends Section 153.502, Family Code, by amending Subsection (a) and adding Subsection (a-1), as follows:

(a) Requires the court, to determine whether there is a risk of the international abduction of a child by a parent of the child, to consider evidence that the parent has taken, enticed away, kept, withheld, or concealed a child in violation of another person's right of possession of or access to the child, unless the parent presents evidence that the parent believed in good faith that the parent's conduct was necessary to avoid imminent harm to the child or the parent; or has recently engaged in planning activities that could facilitate the removal of the child from the United States by the parent, including applying for a passport or visa or obtaining other travel documents for the parent of the child.

(a-1) Requires the court, in considering evidence of planning activities under Subsection (a)(4), to also consider any evidence that the parent was engaging in those activities as a part of a safety plan to flee from family violence.

SECTION 14. Amends Section 153.551, Family Code, by amending Subsection (b) and adding Subsection (c), as follows:

(b) Authorizes a sibling described by Subsection (a) (relating to certain methods for a separated sibling to request access to the child), rather than the sibling of a child, to request access to the child in a suit filed for the sole purpose of requesting the relief, without regard to whether the appointment of a managing conservator is an issue in the suit.

(c) Requires the court to order reasonable access to the child by the child's sibling described by Subsection (a) if the court finds that access is in the best interest of the child.

SECTION 15. Amends the heading of Subchapter K, Chapter 153, Family Code, to read as follows:

**SUBCHAPTER K. PARENTING PLAN, PARENTING COORDINATOR, AND  
PARENTING FACILITATOR**

SECTION 16. Amends Section 153.601, Family Code, by amending Subdivision (3) to redefine "parenting controller" and adding Subdivision (3-a) to define "parenting facilitator."

SECTION 17. Amends Section 153.605, Family Code, by amending Subsections (a) and (b) and adding Subsection (d), as follows:

(a) Authorizes the court, in a suit affecting the parent-child relationship, on its own motion or on a motion or agreement of the parties, to appoint a parenting coordinator or assign a domestic relations office under Chapter 203 (Domestic Relations Offices) to appoint an employee or other person to serve as parenting coordinator, rather than to appoint a parenting coordinator to assist the parties in resolving parenting issues.

(b) Prohibits the court from appointing a parenting coordinator unless, after notice and hearing, the court makes a specific finding that the person appointed has the minimum qualifications required by Section 153.610 (Qualifications of Parenting Coordinator), as documented by the person, unless those requirements have been waived by the court with the agreement of the parties in accordance with Section 153.610(c).

(d) Prohibits an individual appointed as a parenting coordinator from serving in any nonconfidential capacity in the same case, including serving as an amicus attorney, guardian ad litem, or social study evaluator under Chapter 107 (Special Appointments and Social Studies), as a friend of the court under Chapter 202 (Friend of the Court), or as a parenting facilitator under this subchapter.

SECTION 18. Amends Subchapter K, Chapter 153, Family Code, by adding Section 153.6051, as follows:

Sec. 153.6051. APPOINTMENT OF PARENTING FACILITATOR. (a) Authorizes the court, in a suit affecting the parent-child relationship, on its own motion or on a motion or agreement of the parties, to appoint a parenting facilitator or assign a domestic relations office under Chapter 203 to appoint an employee or other person as a parenting facilitator.

(b) Prohibits the court from appointing a parenting facilitator unless, after notice and hearing, the court makes a specific finding that the case is a high-conflict case or there is good cause shown for the appointment of a parenting facilitator and the appointment is in the best interest of any minor child in the suit and the person appointed has the minimum qualifications required by Section 153.610, as documented by the person.

(c) Authorizes a party, notwithstanding any other provision of this subchapter, at any time to file a written objection to the appointment of a parenting facilitator on the basis of family violence having been committed by another party against the objecting party or a child who is the subject of the suit. Prohibits a parenting facilitator from being appointed unless, on the request of a party, a hearing is held and the court finds that a preponderance of the evidence does not support the objection. Requires the court, if a parenting facilitator is appointed, to order appropriate measures be taken to ensure the physical and emotional safety of the party who filed the objection. Authorizes the order to provide that the parties not be required to have face-to-face contact and that the parties be placed in separate rooms during the parenting facilitation.

SECTION 19. Amends Section 153.606, Family Code, by amending Subsections (a), (c), and (d) and adding Subsection (f), as follows:

(a) Requires the court to specify the duties of a parenting coordinator, rather than requiring the duties of a parenting coordinator to be specified, in the order appointing the parenting coordinator. Provides that the duties of the parenting coordinator are limited to matters that will aid the parties in, among other actions, implementing parenting plans; obtaining training regarding problem solving conflict management, and parenting skills; and settling disputes regarding parenting issues and reaching a proposed joint resolution or statement of intent regarding those disputes.

(c) Deletes existing text requiring that any agreement made by the parties with the assistance of the parenting coordinator, if a suit is pending, be reduced to writing, signed by the parties and their attorney, if any, and filed with the court.

(d) Authorizes meetings between the parenting coordinator and the parties to be informal and provides that such meetings are not required to follow any specific procedures unless otherwise provided by this subchapter.

(f) Requires a parenting coordinator appointed under this subchapter to comply with the Ethical Guidelines for Mediators as adopted by the Supreme Court of Texas (Misc. Docket No. 05-9107, June 13, 2005). Requires the parenting coordinator, on request by the court, the parties, or the parties' attorneys, to sign a statement of agreement to comply with those guidelines and submit the statement to the court on acceptance of the appointment. Provides that a failure to comply with the guidelines is grounds for removal of the parenting coordinator.

SECTION 20. Amends Subchapter K, Chapter 153, Family Code, by adding Section 153.6061, as follows:

Sec. 153.6061. DUTIES OF PARENTING FACILITATOR. (a) Requires the court to specify the duties of a parenting facilitator in the order appointing the parenting facilitator. Provides that the duties of the parenting facilitator are limited to those matters described with regard to a parenting coordinator under Section 153.606(a), except that the parenting facilitator is authorized to also monitor compliance with court orders.

(b) Requires a parenting facilitator appointed under this subchapter to comply with the standard of care applicable to the professional license held by the parenting facilitator in performing the parenting facilitator's duties.

(c) Provides that the appointment of a parenting facilitator does not divest the court of the exclusive jurisdiction to determine issues of conservatorship, support, and possession of and access to the child and the authority to exercise management and control of the suit.

(d) Prohibits the parenting facilitator from modifying any order, judgment, or decree.

(e) Authorizes meetings between the parenting facilitator and the parties to be informal and provides that such meetings are not required to follow any specific procedures unless otherwise provided by this subchapter or the standards of practice of the professional license held by the parenting facilitator.

SECTION 21. Amends Section 153.607, Family Code, as follows:

Sec. 153.607. New heading: PRESUMPTION OF GOOD FAITH; REMOVAL OF PARENTING COORDINATOR. (a) Provides that it is a rebuttable presumption that a parenting coordinator is acting in good faith if the parenting coordinator's services have been conducted as provided by this subchapter and the Ethical Guidelines for Mediators described by Section 153.606(f).

(a-1) Authorizes the court, except as otherwise provided by this section, to remove the parenting coordinator in the court's discretion, rather than requires the court to reserve the right to remove the parenting coordinator in the court's discretion.

(b) Requires the court to remove the parenting coordinator on the request and agreement of all, rather than both parties; on the request of the parenting coordinator; on the motion of a party, if good cause is shown; or if the parenting coordinator ceases to satisfy the minimum qualifications required by Section 153.610.

SECTION 22. Amends Subchapter K, Chapter 153, Family Code, by adding Sections 153.6071, 153.6081, 153.6082, 153.6083, and 153.6091, as follows:



Sec. 153.6071. PRESUMPTION OF GOOD FAITH; REMOVAL OF PARENTING FACILITATOR. (a) Provides that it is a rebuttable presumption that a parenting facilitator is acting in good faith if the parenting facilitator's services have been conducted as provided by this subchapter and the standard of care applicable to the professional license held by the parenting facilitator.

(b) Authorizes the court, except as otherwise provided by this section, to remove the parenting facilitator in the court's discretion.

(c) Requires the court to remove the parenting facilitator on the request and agreement of all parties, on the request of the parenting facilitator, on the motion of a party, if good cause is shown, or if the parenting facilitator ceases to satisfy the minimum qualifications required by Section 153.6101.

Sec. 153.6081. REPORT OF PARENTING FACILITATOR. Requires a parenting facilitator to submit a written report to the court and to the parties as ordered by the court. Authorizes the report to include a recommendation described by Section 153.6082(e) and any other information required by the court, except that the report is prohibited from including recommendations regarding the conservatorship of or the possession of or access to the child who is the subject of the suit.

Sec. 153.6082. REPORT OF JOINT PROPOSAL OR STATEMENT OF INTENT; AGREEMENTS AND RECOMMENDATIONS. (a) Requires the parenting coordinator or parenting facilitator, as applicable, if the parties have been ordered by the court to attempt to settle parenting issues with the assistance of a parenting coordinator or parenting facilitator and to attempt to reach a proposed joint resolution or statement of intent regarding the dispute, to submit a written report describing the parties' joint proposal or statement to the parties, any attorneys for the parties, and any attorney for the child who is the subject of the suit.

(b) Provides that the proposed joint resolution or statement of intent is not an agreement unless the resolution or statement is prepared by the parties' attorneys, if any, in a form that meets certain applicable requirements and incorporated into an order signed by the court.

(c) Prohibits a parenting coordinator or parenting facilitator from drafting a document listed in Subsection (b)(1).

(d) Provides that the actions of a parenting coordinator or parenting facilitator under this section do not constitute the practice of law.

(e) Authorizes the parenting facilitator, if the parties have been ordered by the court to attempt to settle parenting issues with the assistance of a parenting facilitator and are unable to settle those issues, to make recommendations, other than recommendations regarding the conservatorship of or possession of or access to the child, to the parties and attorneys to implement or clarify provisions of an existing court order that are consistent with the substantive intent of the court order and in the best interest of the child who is the subject of the suit. Provides that a recommendation authorized by this subsection does not affect the terms of an existing court order.

Sec. 153.6083. COMMUNICATIONS AND RECORDKEEPING OF PARENTING FACILITATOR. (a) Provides that a communication made by a participant in parenting facilitation, notwithstanding any rule, standard of care, or privilege applicable to the professional license held by a parenting facilitator, is subject to disclosure and may be offered in any judicial or administrative proceeding, if otherwise admissible under the rules of evidence. Authorizes the parenting facilitator to be required to testify in any proceeding relating to or arising from the duties of the parenting facilitator, including as to the basis for any recommendation made to the parties that arises from the duties of the parenting facilitator.

(b) Requires a parenting facilitator to keep a detailed record regarding meetings and contacts with the parties, attorneys, or other persons involved in the suit.

(c) Provides that a person who participates in parenting facilitation is not a patient as defined by Section 611.001 (Definitions), Health and Safety Code, and no record created as part of the parenting facilitation that arises from the parenting facilitator's duties is confidential.

(d) Requires that records of parenting facilitation, on request, be made available by the parenting facilitator to an attorney for a party, an attorney for a child who is the subject of the suit, and a party who does not have an attorney.

(e) Requires a parenting facilitator to keep parenting facilitation records from the suit until the seventh anniversary of the date the facilitator's services are terminated, unless a different retention period is established by a rule adopted by the licensing authority that issues the professional license held by the parenting facilitator.

Sec. 153.6091. COMPENSATION OF PARENTING FACILITATOR. Provides that Section 153.609 (Compensation of Parenting Coordinator) applies to the compensation of a parenting facilitator in the same manner as provided for the compensation of a parenting coordinator.

SECTION 23. Amends Section 153.610, Family Code, as follows:

Sec. 153.610. QUALIFICATIONS OF PARENTING COORDINATOR. (a) Requires the court to determine the required qualifications of a parenting coordinator, provided that a parenting coordinator must have experience working in a field relating to families, to have practical experience with high-conflict cases or litigation between parents, and hold at least a bachelor's degree in counseling, education, family studies, psychology, or social work, a graduate degree in a mental health profession, with an emphasis in family and children's issues, or be licensed in good standing as an attorney in this state. Deletes existing text relating to the completion of a parenting coordinator course of at least 16 hours, unless waived by the court.

(b) Requires a parenting coordinator, in addition to the qualifications prescribed by Subsection (a), to complete at least eight hours of family violence dynamics training provided by a family violence service provider; 40 classroom hours of training in dispute resolution techniques in a course conducted by an alternative dispute resolution system or other dispute resolution organization approved by the court; and 24 classroom hours of training in the fields of family dynamics, child development, family law and the law governing parenting coordination, and parenting coordination styles and procedures.

(c) Authorizes a court, in appropriate circumstances, with the agreement of the parties, to appoint a person as parenting coordinator who does not satisfy the requirements of Subsection (a) or Subsection (b)(2) or (3) if the court finds that the person has sufficient legal or other professional training or experience in dispute resolution processes to serve in that capacity.

(d) Creates this subsection from existing text.

SECTION 24. Amends Subchapter K, Chapter 153, Family Code, by adding Sections 153.6101 and 153.6102, as follows:

Sec. 153.6101. QUALIFICATIONS OF PARENTING FACILITATOR. (a) Requires the court to determine whether the qualifications of a proposed parenting facilitator satisfy the requirements of this section. Requires a person under consideration for appointment as a parenting facilitator in the suit, on request by a party, an attorney for a party, or any attorney for a child who is the subject of the suit, to provide proof that the person satisfies the minimum qualifications required by this section.

(b) Requires a parenting facilitator to hold a license to practice in this state as a social worker, licensed professional counselor, licensed marriage and family therapist, psychologist, or attorney and have completed at least certain hours of training.

(c) Provides that the actions of a parenting facilitator who is not an attorney do not constitute the practice of law.

Sec. 153.6102. PARENTING FACILITATOR; CONFLICTS OF INTEREST AND BIAS. (a) Requires a person who has a conflict of interest with, or has previous knowledge of, a party or a child who is the subject of a suit, before being appointed as parenting facilitator in a suit, to disclose the conflict or previous knowledge to the court, each attorney for a party, any attorney for a child, and any party who does not have an attorney and decline appointment in the suit unless, after the disclosure, the parties and the child's attorney, if any, agree in writing to the person's appointment as parenting facilitator.

(b) Requires a parenting facilitator who, after being appointed in a suit, discovers that the parenting facilitator has a conflict of interest with, or has previous knowledge of, a party or a child who is the subject of the suit, to immediately disclose the conflict or previous knowledge to the court, each attorney for a party, any attorney for a child, and any party who does not have an attorney, and to withdraw from the suit unless, after the disclosure, the parties and the child's attorney, if any, agree in writing to the person's continuation as parenting facilitator.

(c) Requires a parenting facilitator, before accepting appointment in a suit, to disclose to the court, each attorney for a party, any attorney for a child who is the subject of the suit, and any party who does not have an attorney, certain relationships or other information regarding any relationship with an attorney, party, or child in the suit that might reasonably affect the ability of the person to act impartially during the person's service as parenting facilitator.

(d) Requires a person who makes a disclosure required by Subsection (c) to decline appointment as parenting facilitator unless, after the disclosure, the parties and the child's attorney, if any, agree in writing to the person's service as parenting facilitator in the suit.

(e) Prohibits a parenting facilitator from serving in any other professional capacity at any other time with any person who is a party to, or the subject of, the suit in which the person serves as parenting facilitator, or with any member of the family of a party or subject. Prohibits a person who, before appointment as a parenting facilitator in a suit, served in any other professional capacity with a person who is a party to, or subject of, the suit, or with any member of the family of a party or subject, from serving as parenting facilitator in a suit involving any family member who is a party to or subject of the suit. Provides that this subsection does not apply to a person whose only other service in a professional capacity with a family or any member of a family that is a party to or the subject of a suit to which this section applies is as a teacher of coparenting skills in a class conducted in a group setting. Defines "family."

(f) Requires a parenting facilitator to promptly and simultaneously disclose to each party's attorney, any attorney for a child who is a subject of the suit, and any party who does not have an attorney the existence and substance of any communication between the parenting facilitator and another person, including a party, a party's attorney, a child who is the subject of the suit, and any attorney for a child who is the subject of the suit, if the communication occurred outside of a parenting facilitator session and involved the substance of parenting facilitation.

SECTION 25. Amends Chapter 153, Family Code, by amending Subchapter L, as follows:

## SUBCHAPTER L. MILITARY DUTY

Sec. 153.701. DEFINITIONS. Defines "designated person," "military deployment," "military mobilization," and "temporary military duty."

Sec. 153.702. TEMPORARY ORDERS. (a) Authorizes either conservator, if a conservator is ordered to military deployment, military mobilization, or temporary military duty that involves moving a substantial distance from the conservator's residence so as to materially affect the conservator's ability to exercise the conservator's rights and duties in relation to a child, to file for an order under this subchapter.

(b) Authorizes the court to render a temporary order in a proceeding under this subchapter regarding possession of or access to the child, or child support.

(c) Authorizes a temporary order rendered by the court under this subchapter to grant rights to and impose duties on a designated person regarding the child, except that the court is prohibited from requiring the designated person to pay child support.

(d) Provides that after a conservator's military deployment, military mobilization, or temporary military duty is concluded, and the conservator returns to the conservator's usual residence, the temporary orders under this section terminate and the rights of all affected parties are governed by the terms of any court order applicable when the conservator is not ordered to military deployment, military mobilization, or temporary military duty.

Sec. 153.703. APPOINTING DESIGNATED PERSON FOR CONSERVATOR WITH EXCLUSIVE RIGHT TO DESIGNATE PRIMARY RESIDENCE OF CHILD. (a) Authorizes the court, if the conservator with the exclusive right to designate the primary residence of the child is ordered to military deployment, military mobilization, or temporary military duty, to render a temporary order to appoint a designated person to exercise the exclusive right to designate the primary residence of the child during the military deployment, military mobilization, or temporary military duty in the following order of preference:

(1) the conservator who does not have the exclusive right to designate the primary residence of the child;

(2) if appointing the conservator described by Subdivision (1) is not in the child's best interest, a designated person chosen by the conservator with the exclusive right to designate the primary residence of the child; or

(3) if appointing the conservator described by Subdivision (1) or the person chosen under Subdivision (2) is not in the child's best interest, another person chosen by the court.

(b) Provides that a designated person named in a temporary order rendered under this section has the rights and duties of a nonparent appointed as sole managing conservator under Section 153.371 (Rights and Duties of Nonparent Appointed as Sole Managing Conservator).

(c) Authorizes the court to limit or expand the rights of a nonparent named as a designated person in a temporary order rendered under this section as appropriate to the best interest of the child.

Sec. 153.704. APPOINTING DESIGNATED PERSON TO EXERCISE VISITATION FOR CONSERVATOR WITH EXCLUSIVE RIGHT TO DESIGNATE PRIMARY RESIDENCE OF CHILD IN CERTAIN CIRCUMSTANCES. (a) Authorizes the court, if the court appoints the conservator without the exclusive right to designate the primary residence of the child under Section 153.703(a)(1), to award visitation with the child to a

designated person chosen by the conservator with the exclusive right to designate the primary residence of the child.

(b) Requires that the periods of visitation be the same as the visitation to which the conservator without the exclusive right to designate the primary residence of the child was entitled under the court order in effect immediately before the date the temporary order is rendered.

(c) Requires that the temporary order for visitation provide that:

(1) the designated person under this section has the right to possession of the child for the periods and in the manner in which the conservator without exclusive right to designate the primary residence of the child is entitled under the court order in effect immediately before the date the temporary order is rendered;

(2) the child's other conservator and the designated person under this section are subject to the requirements of Section 153.316 (General Terms and Conditions), with the designated person considered for purposes of that section to be the possessory conservator;

(3) the designated person under this section has the rights and duties of a nonparent possessory conservator under Section 153.376(a) (relating to certain rights and duties of the possessory conservator during the period of possession) during the period that the person has possession of the child; and

(4) the designated person under this section is subject to any provision in a court order restricting or prohibiting access to the child by any specified individual.

(d) Authorizes the court to limit or expand the rights of a nonparent designated person named in a temporary order rendered under this section as appropriate to the best interest of the child.

Sec. 153.705. APPOINTING DESIGNATED PERSON TO EXERCISE VISITATION FOR CONSERVATOR WITHOUT EXCLUSIVE RIGHT TO DESIGNATE PRIMARY RESIDENCE OF CHILD. (a) Authorizes the court, if the conservator without the exclusive right to designate the primary residence of the child is ordered to military deployment, military mobilization, or temporary military duty, to award visitation with the child to a designated person chosen by the conservator, if the visitation is in the best interest of the child.

(b) Requires that the temporary order for visitation provide that:

(1) the designated person under this section has the right to possession of the child for the periods and in the manner in which the conservator described by Subsection (a) would be entitled if not ordered to military deployment, military mobilization, or temporary military duty;

(2) the child's other conservator and the designated person under this section are subject to the requirements of Section 153.316, with the designated person considered for purposes of that section to be the possessory conservator;

(3) the designated person under this section has the rights and duties of a nonparent possessory conservator under Section 153.376(a) during the period that the designated person has possession of the child; and

(4) the designated person under this section is subject to any provision in a court order restricting or prohibiting access to the child by any specified individual.

(c) Authorizes the court to limit or expand the rights of a nonparent designated person named in a temporary order rendered under this section as appropriate to the best interest of the child.

Sec. 153.706. TEMPORARY ORDER FOR CHILD SUPPORT. Provides that a temporary order rendered under this subchapter may result in a change of circumstances sufficient to justify a temporary order modifying the child support obligations of a party.

Sec. 153.707. EXPEDITED HEARING. (a) Requires the court, on a motion by the conservator who has been ordered to military deployment, military mobilization, or temporary military duty, for good cause shown, to hold an expedited hearing if the court finds that the conservator's military duties have a material effect on the conservator's ability to appear in person at a regularly scheduled hearing.

(b) Requires a hearing under this section, if possible, to take precedence over other suits affecting the parent-child relationship not involving a conservator who has been ordered to military deployment, military mobilization, or temporary military duty.

(c) Requires the court, on a motion by any party, after reasonable advance notice and for good cause shown, to allow a party to present testimony and evidence by electronic means, including by teleconference or through the Internet.

Sec. 153.708. ENFORCEMENT. Authorizes that temporary orders rendered under this subchapter be enforced by or against the designated person to the same extent that an order would be enforceable against the conservator who has been ordered to military deployment, military mobilization, or temporary military duty.

Sec. 153.709. ADDITIONAL PERIODS OF POSSESSION OR ACCESS. (a) Authorizes the conservator, not later than 90th day after the date a conservator without the exclusive right to designate the primary residence of the child who is a member of the armed services concludes the conservator's military deployment, military mobilization, or temporary military duty, to petition the court to:

(1) compute the periods of possession of or access to the child to which the conservator would have otherwise been entitled during the conservator's deployment; and

(2) award the conservator additional periods of possession of or access to the child to compensate for the periods described by Subdivision (1).

(b) Provides that the court, if the conservator described by Subsection (a) petitions the court under Subsection (a):

(1) is required to compute the periods of possession or access to the child described by Subsection (a)(1); and

(2) is authorized to award to the conservator additional periods of possession of or access to the child for a length of time and under the terms the court considers reasonable, if the court determines that the conservator was on military deployment, military mobilization, or temporary military duty in a location where access to the child was not reasonably possible, and the award of additional periods of possession of or access to the child is in the best interest of the child.

(c) Provides that the court, in making the determination under Subsection (b)(2):

(1) is required to consider the periods of possession of or access to the child to which the conservator would otherwise have been entitled during the conservator's military deployment, military mobilization, or temporary military duty, as computed under Subsection (b)(1), whether the court named a designated person under Section 153.705 to exercise limited possession of the child during the conservator's deployment, and any other factor the court considers appropriate; and

(2) is not required to award additional periods of possession of or access to the child that equals the possession or access to which the conservator would have been entitled during the conservator's military deployment, military mobilization, or temporary military duty, as computed under Subsection (b)(1).

(d) Provides that after the conservator described by Subsection (a) has exercised all additional periods of possession or access awarded under this section, the rights of all affected parties are governed by the terms of the court order applicable when the conservator is not ordered to military deployment, military mobilization, or temporary military duty.

SECTION 26. Amends Section 156.002, Family Code, by adding Subsection (c), to authorize the sibling of a child who is separated from the child because of the actions of the Department of Family and Protective Services to file a suit for modification requesting access to the child in the court with continuing, exclusive jurisdiction.

SECTION 27. Amends Section 156.006, Family Code, by amending Subsection (b) and adding Subsection (c), as follows:

(b) Prohibits the court, while a suit for modification is pending, from rendering a temporary order that has the effect of changing the designation of the person who has the exclusive right to designate the primary residence of the child under the final order unless the temporary order is in the best interest of the child and:

(1) Makes no changes to this subdivision.

(2) the person designated in the final order has voluntarily relinquished the primary care and possession of the child for more than six months. Deletes existing text providing that the temporary order is in the best interest of the child.

(3) the child is 12 years of age or older and has expressed to the court in chambers as provided by Section 153.009 (Interview of Child in Chambers), rather than filed with the court in writing, the name of the person who is the child's preference to have the exclusive right to designate the primary residence of the child. Makes a conforming change.

(c) Provides that Subsection (b)(2) does not apply to a conservator who has exclusive right to designate the primary residence of the child and who has temporarily relinquished the primary care and possession of the child to another person during the conservator's military deployment, military mobilization, or temporary military duty, as those terms are defined by Section 153.701.

SECTION 28. Amends Section 156.101, Family Code, as follows:

Sec. 156.101. GROUND FOR MODIFICATION OF ORDER ESTABLISHING CONSERVATORSHIP OR POSSESSION AND ACCESS. (a) Creates this subsection from existing text. Authorizes the court to modify an order that provides for the appointment of a conservator of a child, that provides the terms and conditions of conservatorship, or that provides for the possession of or access to a child if modification would be in the best interest of the child and the child is at least 12 years of age and has expressed to the court in chambers as provided by Section 153.009, rather than filed with

the court in chambers in writing, the name of the person who is the child's preference to have the exclusive right to designate the primary residence of the child.

(b) Provides that Subsection (a)(3) (relating to voluntary relinquishment by the conservator who has exclusive right to designate the primary residence of the child) does not apply to a conservator who has the exclusive right to designate the primary residence of the child and who has temporarily relinquished the primary care and possession of the child to another person during the conservator's military deployment, military mobilization, or temporary military duty, as those terms are defined by Section 153.701.

SECTION 29. Amends Section 156.102, Family Code, by adding Subsection (d), to provide that Subsection (b)(3) (relating to voluntary relinquishment by the person who has exclusive right to designate the primary residence of the child) does not apply to a person who has the exclusive right to designate the primary residence of the child and who has temporarily relinquished the primary care and possession of the child to another person during the conservator's military deployment, military mobilization, or temporary military duty, as those terms are defined by Section 153.701.

SECTION 30. Amends Section 156.105, Family Code, as follows:

Sec. 156.105. New heading: MODIFICATION OF ORDER BASED ON MILITARY DUTY. Provides that the military duty of a conservator who is ordered to military deployment, military mobilization, or temporary military duty, as those terms are defined by Section 153.701, does not by itself constitute a material and substantial change of circumstances sufficient to justify a modification of an existing court order or portion of a decree that sets the terms and conditions for the possession of or access to a child except that the court is authorized to render a temporary order under Subchapter L, Chapter 153. Deletes existing text defining "military deployment." Deletes existing text of Subsection (b) providing that the military deployment of a person who is a possessory conservator or a joint managing conservator without the exclusive right to designate the primary residence of the child is material and substantial change of circumstances sufficient to justify a modification of an existing court order or portion of a decree that sets the terms and conditions for the possession of or access to a child. Deletes existing text of Subsection (c), authorizing the court, if the court determines that modification is in the best interest of the child, to modify the order or decree to provide in a manner consistent with Section 153.3161 (Possession During Military Deployment) for possession of the child during the period of the military deployment by a person designated by the deployed conservator.

SECTION 31. Repealer: Section 153.008 (Child's Preference of Person to Designate Residence), Family Code.

Repealer: Section 153.137 (Guidelines for the Possession of Child by Parent Named As Joint Managing Conservator), Family Code.

Repealer: Section 153.3161 (Possession During Military Deployment), Family Code.

Repealer: Section 153.552 (Access to Sibling), Family Code.

Repealer: Section 156.410 (Change in Circumstances Resulting From Military Service), Family Code.

SECTION 32. (a) Requires each state agency listed in this subsection, not later than March 1, 2011, to adopt rules establishing parenting facilitator practice standards consistent with Section 153.6101, Family Code, as added by this Act, applicable to the agency's license holders who serve as parenting facilitators. Requires that the practice standards be at least as detailed and rigorous as those contained in the report entitled "Guidelines for Parenting Coordination" developed by the Association of Family and Conciliation Courts Task Force on Parenting Coordination, dated May 2005. Requires that the practice standards required by this section contain a minimum number of hours of classroom training in the practice standards that must be



completed by each license holder who wishes to be eligible to serve as a parenting facilitator. Provides that this subsection applies to the State Bar of Texas, Texas State Board of Examiners of Psychologists, Texas State Board of Examiners of Marriage and Family Therapists, Texas State Board of Examiners of Professional Counselors, and Texas State Board of Social Worker Examiners.

(b) Prohibits a person who holds a license from a state agency listed in Subsection (a) of this section, notwithstanding Section 153.6101(b), Family Code, as added by this Act, after March 1, 2011, from being appointed to serve as a parenting facilitator if the agency has not adopted parenting facilitator practice standards as required by Subsection (a) of this section or the license holder has not completed the minimum number of hours of classroom training contained in the practice standards.

(c) Provides that a person who satisfies the qualifications to be a parenting coordinator in effect immediately before the effective date of this Act, notwithstanding any other provision of this section or any other law, is not required to comply with the requirements imposed by Section 153.610, Family Code, as amended by this Act, until September 1, 2010, to be qualified to serve as a parenting coordinator under Subchapter K, Chapter 153, Family Code, as amended by this Act, and the former law is continued in effect for that purpose.

(d) Authorizes a person who is employed by a domestic relations office, as defined by Section 203.001 (Definitions), Family Code, before September 1, 2009, notwithstanding Section 153.610, Family Code, as amended by this Act, or Section 153.6101, Family Code, as added by this Act, to serve as a parenting coordinator or parenting facilitator under Subchapter K, Chapter 153, Family Code, as amended by this Act, if, on the effective date of this Act, the person satisfies the qualifications to be a parenting coordinator under Subchapter K, Chapter 153, Family Code, in effect immediately before the effective date of this Act.

(e) Authorizes a person who has served as parenting coordinator in a case under Subchapter K, Chapter 153, Family Code, before the effective date of this Act, notwithstanding Section 153.6101(b)(1), Family Code, as added by this Act, to be appointed to serve as parenting facilitator under Subchapter K, Chapter 153, Family Code, as amended by this Act, in another case if, on the effective date of this Act, the person satisfies all other qualifications to serve as a parenting facilitator, is enrolled in a graduate course of study at an accredited college or university, and obtains a license described by Section 153.6101(b)(1), Family Code, as added by this Act, on or before September 1, 2011.

SECTION 33. (a) Provides that Sections 102.0045, 153.432, 153.433, 153.502, 153.551, 156.002, 156.102, and 156.105, Family Code, as amended by this Act, and Sections 156.006(c) and 156.101(b), Family Code, as added by this Act, apply only to a suit affecting the parent-child relationship pending in a trial court on or filed on or after the effective date of this Act.

(b) Makes application of Sections 153.311, 153.312, 153.313, 153.314, 153.315, and 153.317, Family Code, as amended by this Act, and Section 153.3101, Family Code, as added by this Act, prospective.

(c) Makes application of Section 156.006(b), Family Code, as amended by this Act, and Section 156.101(a), Family Code, as added by this Act, prospective.

SECTION 34. Effective date: September 1, 2009.