

By: Wu

H.B. No. 4355

Substitute the following for H.B. No. 4355:

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C.S.H.B. No. 4355

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the interview of a child in a suit affecting a
3 parent-child relationship.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. The heading to Section 153.009, Family Code, is
6 amended to read as follows:

7 Sec. 153.009. INTERVIEW OF CHILD BY COURT [~~IN CHAMBERS~~].

8 SECTION 2. Section 153.009, Family Code, is amended by
9 amending Subsections (a), (b), (d), and (f) and adding Subsection
10 (g) to read as follows:

11 (a) In a nonjury trial or at a hearing, on the application of
12 a party, the amicus attorney, or the attorney ad litem for the
13 child, the court shall interview [~~in chambers~~] a child 12 years of
14 age or older and may interview [~~in chambers~~] a child under 12 years
15 of age to determine the child's wishes as to conservatorship or as
16 to the person who shall have the exclusive right to determine the
17 child's primary residence. The court may also interview a child [~~in~~
18 ~~chambers~~] on the court's own motion for a purpose specified by this
19 subsection. The court may interview the child in chambers or in
20 another location used by the court.

21 (b) In a nonjury trial or at a hearing, on the application of
22 a party, the amicus attorney, or the attorney ad litem for the child
23 or on the court's own motion, the court may interview the child
24 under this section [~~in chambers~~] to determine the child's wishes as

1 to possession, access, or any other issue in the suit affecting the
2 parent-child relationship.

3 (d) In a jury trial, the court may not interview the child
4 under this section [~~in chambers~~] regarding an issue on which a party
5 is entitled to a jury verdict.

6 (f) If the child is 12 years of age or older, the court:

7 (1) may cause a record of the interview to be made on
8 the court's own motion; or

9 (2) on [~~On~~] the motion of a party, the amicus attorney,
10 or the attorney ad litem for the child, [~~or on the court's own~~
11 ~~motion, the court~~] shall cause:

12 (A) a record of the interview to be made; and

13 (B) the [~~when the child is 12 years of age or~~
14 ~~older.~~ A] record of the interview to [~~shall~~] be part of the record
15 in the case.

16 (g) A court shall order the sealing of a record of an
17 interview made under this section unless a party has filed a notice
18 of appeal for the suit.

19 SECTION 3. Section 156.006(b), Family Code, is amended to
20 read as follows:

21 (b) While a suit for modification is pending, the court may
22 not render a temporary order that has the effect of creating a
23 designation, or changing the designation, of the person who has the
24 exclusive right to designate the primary residence of the child, or
25 the effect of creating a geographic area, or changing or
26 eliminating the geographic area, within which a conservator must
27 maintain the child's primary residence, under the final order

1 unless the temporary order is in the best interest of the child and:

2 (1) the order is necessary because the child's present
3 circumstances would significantly impair the child's physical
4 health or emotional development;

5 (2) the person designated in the final order has
6 voluntarily relinquished the primary care and possession of the
7 child for more than six months; or

8 (3) the child is 12 years of age or older and has
9 expressed to the court [~~in chambers~~] as provided by Section 153.009
10 the name of the person who is the child's preference to have the
11 exclusive right to designate the primary residence of the child.

12 SECTION 4. Section 156.101(a), Family Code, is amended to
13 read as follows:

14 (a) The court may modify an order that provides for the
15 appointment of a conservator of a child, that provides the terms and
16 conditions of conservatorship, or that provides for the possession
17 of or access to a child if modification would be in the best
18 interest of the child and:

19 (1) the circumstances of the child, a conservator, or
20 other party affected by the order have materially and substantially
21 changed since the earlier of:

22 (A) the date of the rendition of the order; or

23 (B) the date of the signing of a mediated or
24 collaborative law settlement agreement on which the order is based;

25 (2) the child is at least 12 years of age and has
26 expressed to the court [~~in chambers~~] as provided by Section 153.009
27 the name of the person who is the child's preference to have the

1 exclusive right to designate the primary residence of the child; or
2 (3) the conservator who has the exclusive right to
3 designate the primary residence of the child has voluntarily
4 relinquished the primary care and possession of the child to
5 another person for at least six months.

6 SECTION 5. The change in law made by this Act applies only
7 to a suit affecting the parent-child relationship pending on the
8 effective date of this Act or filed on or after that date.

9 SECTION 6. This Act takes effect September 1, 2023.